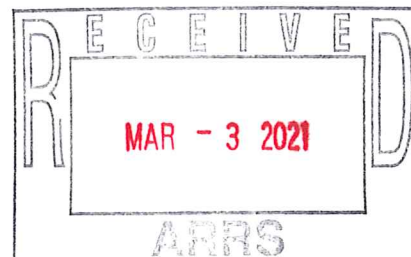




Nicole S. Bearse
Member
229 West Main Street, Suite 301
Frankfort, Kentucky 40601
(502) 699-2355
nbearse@goldbergsimpson.com

Wednesday, March 3, 2021

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Ms. Emily Caudill, Regulation Compiler
Legislative Research Commission
029 Capital Annex
Frankfort, Kentucky 40601

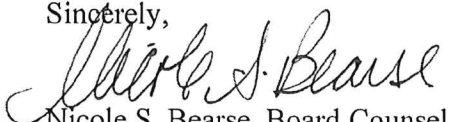


Re: 201 KAR 23:070 – Qualifying Education and Clinical Practice Under Supervision

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 23:070, the Kentucky Board of Social Work proposes the attached amendment to 201 KAR 23:070.

Sincerely,


Nicole S. Bearse, Board Counsel
Kentucky Board of Social Work

NSB/
Cc: J. Miller; A. Adcock; KBSW

Final, 3-3-2021

AGENCY AMENDMENT

**GENERAL GOVERNMENT CABINET
Kentucky Board of Social Work**

201 KAR 23:070. Qualifying education and clinical practice experience under supervision.

NOTE TO COMPILER: Please make these changes before you enroll the Staff Suggested Amendment changes that also include the renumbering.

Page 5

Section 4(1)(c)3.

Line 3

After "Completed an initial", insert "board-approved".

Page 5

Section 4(1)(c)5.

Line 10

After "to the initial", insert "board-approved".

Line 11

After "shall complete a", insert "board-approved".

Page 15

Section 12(1)

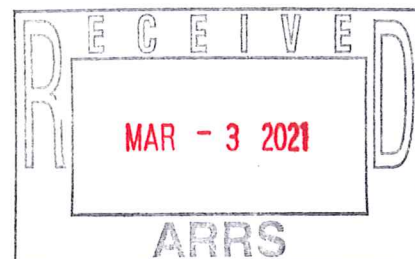
Line 20

After "one (1) hour", insert "board-approved".



Nicole S. Bearse
Member
229 West Main Street, Suite 301
Frankfort, Kentucky 40601
(502) 699-2355
nbearse@goldbergsimpson.com

Wednesday, March 3, 2021



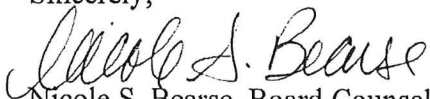
Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Ms. Emily Caudill, Regulation Compiler
Legislative Research Commission
029 Capital Annex
Frankfort, Kentucky 40601

**Re: 201 KAR 23:070 – Qualifying Education and Clinical Practice Under
Supervision – Staff Amendments**

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 23:070, the Kentucky Board of Social Work proposes the attached amendment to 201 KAR 23:070.

Sincerely,


Nicole S. Bearse, Board Counsel
Kentucky Board of Social Work

NSB/
Cc: J. Miller; A. Adcock; KBSW

Final, 3-3-2021

SUGGESTED AMENDMENT

**GENERAL GOVERNMENT CABINET
Kentucky Board of Social Work**

201 KAR 23:070. Qualifying education and clinical practice experience under supervision.

**Page 2
NECESSITY, FUNCTION, AND CONFORMITY
Line 5**

After "Request to Provide Supervision", lowercase the first letter of "Form".

**Page 5
Section 4(1)(c)2. and 4(1)(c)3.
Lines 2-3**

After "regulation; and", insert "(d) 1.".
Delete "3."

**Page 5
Section 4(1)(c)3. and 4(1)(c)4.
Lines 5-7**

After "KAR Chapter 23; and", insert "2.".
Delete "4."

**Page 5
Section 4(1)(c)4.
Line 9**

After "date of this", insert "administrative".

**Page 5
Section 4(1)(c)4. and 4(1)(c)5.
Lines 9-10**

After "regulation", insert "; and (e)".
Delete ". 5."

**Page 5
Section 4(1)(c)5.
Lines 10-11**

After "course established in", delete "subparagraph 2. of this".

Line 11
After "paragraph", insert "(d) of this subsection".

**Page 5
Section 4(2)
Line 15**

After "subsection (1)", insert "(d) 1.".
Delete "(c) 2."
After "and", immediately following, insert "paragraph (e)".
Delete "3."

Page 6

Section 4(4)

Line 7

After "Request to Provide Supervision", lowercase the first letter of "Form".

Page 7

Section 5(6)(c)

Line 6

After "case information", insert a semicolon.
Delete the period.

Page 8

Section 5(10)(c)

Line 16

After "the office;", insert "and".

Page 10

Section 8(2)(b)

Line 13

After "supervision hours,", insert "if".
Delete "so long as".

Line 14

After "can see", insert "each other".
Delete "one another".

Page 12

Section 9(1)

Lines 6-7

After "Request to Provide Supervision", lowercase the first letter of "Form".

Page 13

Section 9(3)

Line 1

After "good standing", insert a period.

Page 13

Section 10(1)(a)

Line 14

After "his or her", insert the following:
Request to Provide Supervision form
Delete "application".

Page 13

Section 10(1)(b)

Line 19

After "his or her", insert the following:
Request to Provide Supervision form
Delete "application".

Pages 13-14

Section 10(1)(b)

Lines 20 and 1

After "his or her", insert the following:

Request to Provide Supervision form

Delete "application".

Page 14

Section 10(1)(b)

Line 1

After "his or her", insert the following:

Request to Provide Supervision form

Delete "application".

Page 16

Section 13(1)

Line 5

After "(1)", insert the following:

The following material is incorporated by reference: (a)

Line 6

After "Contract," and the closing quotation marks, insert the following:

4/2021; and (b) "Request to Provide Supervision", 4/2021

Delete the following:

3/2021, is incorporated by reference

MATERIAL INCORPORATED BY REFERENCE

At the time that the agency files this staff suggested amendment it needs to file one (1) clean copy of each of the following:

An updated copy of the "Request to Provide Supervision Form" with a 4/2021 edition date to distinguish it from the previous version filed, and which makes these changes:

Page 1

- Updates edition date to 4/2021
- Fixes typo, changes "Homes" to "Holmes"
- Under Section 4(1)(c)1., changes "three (3) years" to "two (2) years" to be consistent with the amended after comments change in body of regulation
- Change citation to Section 4(1)(c)2. to Section 4(1)(d)1.
- Correct typo to "KRC" to "KRS"
- Change citation to Section 4(1)(c)(3) to Section 4(1)(e)
- Under Section 4(1)(b), after "him", insert "or her", and fix typo "pervious" to "previous"
- Change reference "must" to "shall"
- Change citation to Section 4(2) to Section 4(3)
- Add that the three (3) hour refresher course is board-approved

Page 2

- After "KRS", and before "335", insert "Chapter"
- Add enough space for the applicant signature and signature blank for both it and the date
- Add that the initial supervisory training course and refresher course are board-approved

An updated copy of the "Clinical Social Work Supervision Contract" with a 4/2021 edition date to distinguish it from the previous version filed, and which makes these changes:

- On each page update edition date to 4/2021

Page 1

- Add that the initial supervisory training course and refresher course are board-approved

Page 2

- Before "Section 5(5)(b)", insert "201 KAR 23:070,"

Pages 3-4

- Change citations to Section 4(1)(a) to Section 4(1) to make sure includes all the requirements
- Delete references to "regular wages" under Signatures and Affirmations for consistency with the regulation as amended after comments

Page 4

- Add that the one (1) hour training course is board-approved

4/2021

MATERIAL INCORPORATED BY REFERENCE

REQUEST TO PROVIDE SUPERVISION

KY Board of Social Work, 125 Holmes Street, Ste. 310, Frankfort, Kentucky 40601, 502-564-2350,
<http://bsw.ky.gov>.

1. Name: Mailing Address:
2. Business Name/Address: Email Address:
3. LCSW No.: Original Issue Date: Expiration Date:

Pursuant to: 201 KAR 23:070

Section 4(1)(c) 1. A Person wishing to provide supervision shall have been in the practice of clinical social work for two (2) years following licensure as a licensed clinical social worker in Kentucky or another jurisdiction; and

Section 4(1)(d)1. Has completed a board-approved six (6) hour training course on supervisory practices and methods for licensed clinical social workers related to the requirements in KRS 335.010 to 335.160 and 335.090, and 201 KAR Chapter 23; and

201 KAR 23:070 Section 4(1)(e). Agrees to complete an additional board-approved three (3) hour refresher course during each licensure renewal period following initial approval as a supervisor; and

201 KAR 23:070 Section 4(1)(b): A supervisor shall not have an unresolved citation filed against him or her the board, a suspended or probated license, or a previous or existing personal relationship with a supervisee.

Do you currently have any unresolved complaints against your license in this state or any other state or jurisdiction?

Yes No If yes, you shall submit official documentation of the complaint.

201 KAR 23:070 Section 4(3). A Supervisor shall not serve as supervisor of record for more than six (6) certified social workers with whom he or she has a contract to be held accountable to the board at the same time.

Please list the number of certified social workers that you currently have board approved supervision contracts existing with.

KRS 335.100(3). A licensed clinical social worker may contract with a certified social worker in the practice of clinical social work as provided in KRS 335.080(3). The licensed clinical social worker shall assume responsibility for and supervise the certified social worker's practice as directed by the board in 201 KAR 23:070.

I do hereby affirm that all statements made herewith are true and correct to the best of my knowledge and belief.

I further affirm that I have read KRS Chapter 335, specifically 201 KAR 23:070, and understand that I shall assume responsibility for the practice of and shall supervise the certified social worker's practice of clinical social work as directed by 201 KAR 23:070.

Applicant Signature

Date

Once completed please print and apply your original signature to this form and mail to the board address. Please attach a copy of your board-approved initial supervisory training course certificate and your most recent board-approved refresher supervisory training course certificate, if applicable.

Forms not completed correctly will not be reviewed and will be returned.

4/2021 MATERIAL INCORPORATED BY REFERENCE

CLINICAL SOCIAL WORK SUPERVISION CONTRACT

KY Board of Social Work, 125 Holmes Street, Ste. 310, Frankfort, KY 40601, 502-564-2350, bsw.ky.gov

FOR OFFICE USE ONLY:

Approved: Incomplete: Reason(s) incomplete / comments:

THIS CONTRACT is a legal agreement between , LCSW, Supervisor of Record, and , CSW Supervisee, and the Additional Supervisors, if any. The purpose is to meet the legal requirements for supervised clinical social work practice by a CSW Supervisee as established in KRS 335.080(3), 335.100(3), and 201 KAR 23:070.

ALERT: A new contract is required when: 1) A change in supervisor of record is requested; 2) The CSW terminates employment with the employer identified in this contract; 3) A change of scope in employment relevant to this contract; 4) The CSW accepts new part-time employment.

THE LCSW SUPERVISOR OF RECORD SHALL NOT PERMIT THE CSW SUPERVISEE TO BEGIN CLINICAL SOCIAL WORK PRACTICE UNTIL RECEIPT OF NOTICE FROM THE BOARD OF SOCIAL WORK THAT THIS CONTRACT HAS BEEN APPROVED.

SECTION I. INFORMATION ABOUT THE LCSW SUPERVISOR

NAME: LCSW LICENSE #: Original Issue Date:

Mailing ADDRESS:

Preferred email address:

Best daytime telephone number:

SUBMIT a copy of the certificate of completion for the board-approved initial supervisory training course, as well as your most recent board-approved refresher training course (as applicable), for LCSW Supervisors.

SECTION II. INFORMATION ABOUT THE CSW SUPERVISEE

Does this individual hold a KY CSW license? Yes or No

NAME:

CSW LICENSE #:

Original Issue Date:

Mailing ADDRESS:

Preferred email address:

Best daytime telephone number:

Has the CSW Supervisee completed a one (1) hour board-approved course on supervision? Yes or No

Date of completion:

SUBMIT a copy of the certificate of completion.

SECTION III. CHECK THE CATEGORY OF CONTRACT APPROVAL YOU ARE SEEKING:

Preapproved evaluation.

Transitional evaluation.

Clinical practice contract. THIS CONTRACT DOES NOT ALLOW HOURS UNDER SUPERVISION TO COUNT TOWARDS LICENSURE AS A LICENSED CLINICAL SOCIAL WORKER.

SECTION IV. EMPLOYER

Name of Employer:

Address:

Name of Agency Supervisor:

Best Phone to reach Agency Supervisor: Ext. No.:

Agency Supervisor email address:

SECTION V. FACILITY AND NATURE OF PRACTICE AT THIS SETTING

Name of Facility where CSW Supervisee will be practicing:

Facility Address:

Main Phone:

Describe the nature of this clinical practice:

What age and type of clients will be treated by the CSW Supervisee?

What therapies and treatment modalities will be used including the prospective length of treatment per 201 KAR 23:070 Section 5(5)(b)?

What are the typical mental disorders that will be treated?

Will the CSW Supervisee provide services by telehealth?

SECTION VI. NATURE OF SUPERVISION

How many clinical supervision hours, per two-week period, will the CSW receive, pursuant to this contract?

- a. How many of these clinical supervision hours, per two-week period, will the CSW receive via individual supervision, pursuant to this contract?
- b. How many of these clinical supervision hours, per two-week period, will the CSW receive via group supervision, pursuant to this contract?

What is primary format for clinical supervision, pursuant to this contract?

Electronic (Virtual and Face-to-Face) or Physical

SECTION VII. CSW SUPERVISEE EMPLOYMENT DETAILS

Is the CSW Supervisee employed FULL-TIME or PART-TIME?

Full-time hours per week (minimum of 30 hours per week).

Part-time hours per week (minimum of 20 hours per week).

How many hours per week will the CSW Supervisee spend in a direct client-professional relationship?

Describe the CSW Supervisee's direct contact with clients:

Will the CSW Supervisee be performing client assessments and evaluations?

Yes or No? If no, explain:

Will the CSW Supervisee be diagnosing mental disorders?

Yes or No? If not, explain:

Will the CSW Supervisee be providing therapy to individuals, families or groups?

Yes or No? If not, explain:

Describe the reasons, conditions, and procedures for termination of the supervision:

Describe the procedures for evaluation of the supervision process to be conducted every six months:

Describe the procedures for evaluation of the supervision process to be conducted every six (6) months, including the evaluation of areas of strength, improvement and overall satisfaction with the supervision process by the supervisor and supervisee:

SECTION VIII. SIGNATURES AND AFFIRMATIONS

SUPERVISOR OF RECORD

I agree to serve as the supervisor of record for the above named CSW Supervisee and affirm that:

- (1) I shall be held accountable to the board for the services given to this CSW Supervisee's practice;
- (2) The CSW Supervisee is an employee of an agency, institution or organization, has no direct or indirect financial interest other than employment, and Social Security and income tax are deducted from the CSW's salary;
- (3) When the CSW Supervisee applies for licensure as a LCSW or this contract is terminated, I shall promptly and accurately document the hours under supervision and report to the board whether this individual is ready for independent practice; and
- (4) I shall immediately notify the board in writing if the conditions of this contract are changed or this contract is terminated by either party and the reason for termination.
- (5) I meet all criteria listed in 201 KAR 23:070 Section 4(1) that are required in order to be an approved supervisor.

ELECTRONIC SIGNATURE

DATE

ADDITIONAL SUPERVISOR(S)

I agree to serve as the supervisor of record for the above named CSW Supervisee and affirm that:

- (1) When the CSW Supervisee applies for licensure as a LCSW or this contract is terminated, I will promptly and accurately document the hours under supervision and report to the board whether this individual is ready for independent practice; and
- (2) I shall immediately notify the board in writing if the conditions of this contract are changed or this contract is terminated by either party.
- (3) I meet all criteria listed in 201 KAR 23:070 Section 4(1) that are required in order to be an approved supervisor.

ELECTRONIC SIGNATURE DATE

CSW SUPERVISEE

I agree to the terms of this contract and affirm that:

- (1) I shall remain under supervision as long as I am practicing clinical social work as a CSW;
- (2) I am an employee of the facility listed in the clinical practice setting and have no direct or indirect financial interest other than my employment; and
- (3) I am an employee of an agency, institution or organization and have Social Security and income tax deducted from my salary.
- (4) I have completed a board-approved one (1) hour training course on supervised clinical practice experience.

ELECTRONIC SIGNATURE DATE

AGENCY SUPERVISOR – Complete this section if the supervisor of record is not the CSW Supervisee's agency supervisor.

I am the agency supervisor for the CSW Supervisee and affirm that:

I have reviewed the proposed contract and affirm the agency will support the proposed supervised clinical practice experience; and

The CSW Supervisee is an employee of an agency, institution or organization, has no direct or indirect financial interest other than employment, and Social Security and income tax are deducted from the CSW Supervisee's salary.

ELECTRONIC SIGNATURE DATE

COMPLETE THIS SECTION IF THE CSW SUPERVISEE AND SUPERVISOR OF RECORD ARE NOT EMPLOYED BY THE SAME EMPLOYER.

SECTION VIII. SHARED RESPONSIBILITY FOR SUPERVISION

We, the undersigned, acknowledge that we mutually share professional responsibility for the clinical social work services provided to clients by the CSW Supervisee] and are jointly accountable for the quality of the services provided to clients.

We further acknowledge that since the supervision will take place outside the agency of employment and that agency cases will be discussed in this supervisory relationship, confidentiality of patient records shall be maintained by all parties and strict compliance with the Code of Ethical Conduct established in 201 KAR 23:080.

Supervisor of Record: License No.:

ELECTRONIC SIGNATURE DATE

CSW Supervisee: License No.:

ELECTRONIC SIGNATURE DATE

Agency Supervisor/Employer Representative:

Name:

ELECTRONIC SIGNATURE DATE



Andy Beshear
Governor

Kerry B. Harvey
Secretary

Ray A. Perry
Deputy Secretary

Public Protection Cabinet
Kentucky Real Estate Appraisers Board
321 North Madison Avenue
Richmond, KY 40475
(859) 623-1658
<https://kreab.ky.gov>

Robert Astorino, Executive Director
Kentucky Real Estate Authority

John Hardesty, General Counsel
Kentucky Real Estate Authority

March 1, 2021

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulation Complier
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort, KY 40601



Re: 201 KAR 30:040 Professional Standards of practice and conduct

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 30:040, the Kentucky Real Estate Authority/Kentucky Real Estate Appraisers Board proposes the attached amendment to 201 KAR 30:040.

Sincerely,

A handwritten signature in black ink, appearing to read "John C. Hardesty". The signature is fluid and cursive, with the first and last names being more prominent.

John Hardesty
General Counsel
Kentucky Real Estate Authority

Final 2-23-2021

SUGGESTED AMENDMENT

**PUBLIC PROTECTION CABINET
Kentucky Real Estate Authority
Kentucky Real Estate Appraisers Board**

201 KAR 30:040. Professional standards of practice and conduct.

Page 5

Section 5(6)(c)

Line 10

After “, until the associate”, insert “: 1.”.
Capitalize the first letter of “is”.

Line 11

After “independently”, insert “: 2.”.
Delete the comma immediately following.
Capitalize the first letter of “has”.

Line 12

After “201 KAR Chapter 30”, insert a semicolon.
Delete the comma immediately following.
After “and”, insert “3.”.
Capitalize the first letter of “the”, immediately following.

Line 14

After “Uniform Standards of”, insert “Professional”.
After “property type”, insert a semicolon.
Delete the period.



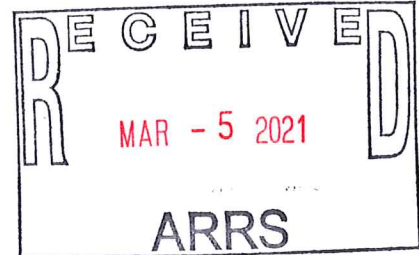
**TOURISM, ARTS AND HERITAGE CABINET
KENTUCKY DEPARTMENT OF FISH & WILDLIFE RESOURCES**

Andy Beshear
Governor

#1 Sportsman's Lane
Frankfort, Kentucky 40601
Phone (502) 564-3400
Fax (502) 564-0506

Mike Berry
Secretary

March 5, 2021



Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill
Administrative Regulation Review Subcommittee
Legislative Research Commission
Room 29, Capitol Annex
Frankfort, Kentucky 40601

Re: 301 KAR 2:221, Waterfowl seasons and limits.

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 301 KAR 2:221, the Department of Fish and Wildlife Resources proposes the attached amendment to 301 KAR 2:221.

Sincerely,

Brian Clark
Deputy Commissioner
KDFWR



Staff-suggested Amendment
Final Version 2/18/2021 12:46 p.m.
TOURISM, ARTS AND HERITAGE CABINET
Department of Fish and Wildlife Resources

301 KAR 2:221. Waterfowl seasons and limits.

Page 1

RELATES TO paragraph

Line 5

After "KRS 150.010", insert "(45)".

Delete "(41)".

Page 1

STATUTORY AUTHORITY paragraph

Line 6

After "150.600", delete "(1)".

Page 1

NECESSITY, FUNCTION, AND CONFORMITY paragraph

Line 10

After "KRS 150.600", delete "(1)".

Page 1

Section 1(4)

Line 18

After "KRS 150.010", insert "(45)".

Delete "(41)".

Page 5

Section 8

Line 5

After "Conservation Order", capitalize "season".

Ryan F. Quarles
Commissioner

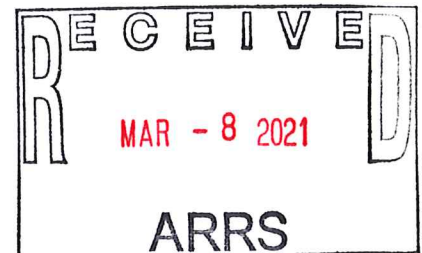


Corporate Drive
Complex
Frankfort, KY 40601
(502) 573-0282

Kentucky Department of Agriculture

March 5, 2021

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601



Re: 302 KAR 4:010. Renewable Chemical Production Program.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 302 KAR 4:010 the Kentucky Department of Agriculture proposes the attached amendments to 302 KAR 4:010.

Sincerely,

<Electronically signed this day>

Clint Quarles
Staff Attorney
Kentucky Department of Agriculture
107 Corporate Drive
Frankfort, KY 40601



DEPARTMENT OF AGRICULTURE
Office of the Commissioner
(New Administrative Regulation)

302 KAR 4:010. Renewable Chemical Production Program.

RELATES TO: KRS Chapter **13B, 246.700**~~[246]~~

STATUTORY AUTHORITY: KRS 246.700(1)(a)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 246.700(1)(a) requires the Department of Agriculture to promulgate administrative regulations to create and administer a renewable chemical production program. KRS 246.700~~(7)~~ requires the department to cooperate with the Department of Revenue to authorize tax credits for eligible companies producing renewable chemicals. **KRS 246.700(4)(a) authorizes the department to impose a nonrefundable compliance cost fee of \$500, collected by the department at the time a business applies for participation in the program.** This administrative regulation establishes requirements for renewable chemicals, creation of jobs or investment of new capital related to renewable chemical production, and reporting requirements for eligible companies.

Section 1. Definitions.

(1) "Base employment" means the number of full-time employees employed on the day prior to the work start date of the new employees filling the earliest new jobs identified on the application. For applications from businesses involved in mergers, acquisitions, or federal tax identification number changes, base employment may be adjusted by the department, **based on data presented**;

(2) "Biobased content percentage" means, with respect to any renewable chemical, the amount, expressed as a percentage, of renewable organic material present as determined by testing representative samples using the American Society for Testing and Materials standard D6866.

(3) "Biomass feedstock" means agricultural crop and process residues, wood and forest residues, energy crops, sugar, polysaccharide, crude glycerin, lignin, fat, grease, or oil derived from a plant or animal, or a protein capable of being converted to a building block chemical by means of a biological or chemical conversion process.

(4) "Building block chemical" means a molecule converted from biomass feedstock as a first product or a secondarily derived product that can be further refined into a higher-value chemical, material, or consumer product, **such as**. ~~"Building block chemical" includes but is not limited to~~ high-purity glycerol, oleic acid, lauric acid, methanoic or formic acid, arabonic acid, erythronic acid, glyceric acid, glycolic acid, lactic acid, 3-hydroxypropionate, propionic acid, malonic acid, serine, succinic acid, fumaric acid, malic acid, aspartic acid, 3-hydroxybutyrolactone, acetoin, threonine, itaconic acid, furfural,

levulinic acid, glutamic acid, xylonic acid, xylaric acid, xylitol, arabitol, citric acid, aconitic acid, 5-hydroxymethylfurfural, lysine, gluconic acid, glucaric acid, sorbitol, gallic acid, ferulic acid, hydroxyalkanoic acids, 1 nonfuel butanol, nonfuel ethanol, biomass derived carbons, bio-oil, or constituent polymer repeating units, or ~~[such]~~ additional molecules as may be approved by the department after a request and review process, **in accordance with Section 6 of this administrative regulation:**

(5) "Commissioner" means the Commissioner of Agriculture;

(6) "Crude glycerin" means glycerin with a purity level below **95** ~~[ninety-five]~~ percent;

(7) **"Date of Eligibility" means the date that a business first qualified as an eligible business by organizing, expanding, or locating in Kentucky on or after July 1, 2020, and:**

(a) Filling new jobs; or

(b) Acquiring tangible capital assets as a result of substantial new capital investment.

(8) "Department" means the Kentucky Department of Agriculture;

(9)~~[(8)]~~ "Food additive" means a building block chemical that is not primarily consumed as food but which, when combined with other components, improves the taste, appearance, odor, texture, or nutritional content of food. The Department ~~[, in its discretion,]~~ shall determine whether or not a building block chemical is primarily consumed as food, **based on data presented.**

(10)~~[(9)]~~ "Full-time employee" means a person employed for at least an average of thirty-five (35) hours per week and subject to the state tax imposed by KRS 141.020;

(11)~~[(10)]~~ "High-purity glycerol" means glycerol with a purity level of **95** ~~[ninety-five]~~ percent or higher.

(12)~~[(11)]~~ "New Jobs" means at least two (2) positions added for the purpose of producing renewable chemicals that are filled by a full-time employee and that increases the total employment of the eligible business above its base employment;

(13)~~[(12)]~~ **"Preliminary Tax Credit" means the dollar amount of tax credit certified by the department for an eligible business.**

(14) "Renewable Chemical" means a building block chemical with a biobased content percentage of at least 50 percent, **except for**~~["Renewable chemical" does not include]~~ a chemical sold or used for the production of food, feed, or fuel. "Renewable chemical" includes:

(a) Cellulosic ethanol, starch ethanol, or other ethanol derived from biomass feedstock, fatty acid methyl esters, or butanol, but only to the extent that **these**~~[such]~~ molecules are produced and sold for uses other than food, feed, or fuel;

(b) ~~["Renewable chemical" also includes]~~ A building block chemical that can be a food additive as long as the building block chemical is not primarily consumed as food and is also sold for uses other than food; **and**

~~(c) ["Renewable chemical" also includes]~~ Supplements, vitamins, nutraceuticals, and pharmaceuticals, but only to the extent that **these[such]** molecules do not provide caloric value so as to be considered sustenance as food or feed;

~~(15)[(13)]~~ "Substantial Amount of New Capital" means the investment, after July 1, 2020, by an eligible business of at least **\$5,000**~~[five thousand (\$5000)]~~ in tangible capital assets used directly in the production of renewable chemicals.

~~(16)[(14)]~~ "Sugar" means the organic compounds produced from dedicated crops as well as derived from starches, cellulose, and hemiceluloses, including: glucose, fructose, xylose, arabinose, lactose, and sucrose.

~~[(15) "Date of Eligibility" means the date that a business first qualified as an eligible business by organizing, expanding, or locating in Kentucky on or after July 1, 2020 and:~~

~~—(a) Filling new jobs; or~~

~~—(b) Acquiring tangible capital assets as a result of substantial new capital investment.~~

~~—(16) "Preliminary Tax Credit" means the dollar amount of tax credit certified by the department for an eligible business.]~~

Section 2. Tax Credit Rate Calculation. An eligible business may be approved for a preliminary tax credit, **in accordance with the provisions of KRS 246.700 and this administrative regulation**, calculated in an amount equal to the product of five cents (\$0.05) multiplied by the number of pounds in molecular weight of renewable chemicals produced in this state by the eligible business. This credit may be retroactive to July 1, 2020, with consent of the Kentucky Revenue Cabinet.

Section 3. Full-Time Employee Requirements.

(1) A business shall employ at least two (2) full-time employees over the base employment to meet the eligibility requirement for creating new jobs.

(2) If a full-time employee filling a new job ceases to be employed by the eligible business for any reason, the employee shall be replaced within forty-five (45) days of the employee's termination date in order for the eligible business to maintain the new job for the required period of time. The business shall notify the department within **five (5)[5]** days after the termination date of the need to replace the terminated employee. The business shall notify the department within **five (5)[5]** days after a replacement employee has been hired.

(3) All paid hours (work hours and paid leave hours) **shall[should]** be included when calculating the average hours worked per week to determine if an employee meets the **thirty-five (35)[35-]** hour minimum requirement to qualify as full-time.

Section 4. Program Applications.

(1) Applications for preliminary tax credits shall be filed with the department by the 15th day of the 1st month following the close of the preceding calendar year.

(2) Upon receipt of an incomplete application or an application without the correct fee, the department shall notify the applicant of the need for additional information or payment. The department shall consider the application abandoned if the department does not receive the required information or payment within thirty (30) days after notification of the deficiency. The thirty (30) day period shall begin on the date the notification is issued by the department.

Section 5. Required Agreement. An eligible ***business***~~[businesses]~~ shall enter into an agreement with the department to submit all information and reports necessary for the department to determine its date of eligibility, the amount of preliminary tax credit for which the business is eligible, and compliance for each year, including information on required creation or maintenance of new jobs or investment of a substantial amount of new capital.

Section 6. Requests for Eligibility of Additional Molecules and Review.

(1) The department may, after review, add additional eligible molecules to the definition of "building block chemical" upon written request by a producer of a molecule not currently included in the definition of building block chemical.

(2) The department shall accept for review requests for approval of additional molecules on a continuous basis.

(3) The department, before approval of any request for an additional building block molecule, shall convene a committee to review the request and determine whether a requested molecule meets the definition of building block chemical and the ***criteria***~~[criteria]~~ for an eligible renewable chemical. The committee shall consist of:

(a) The Director, or their designee, from the University of Kentucky Center for Applied Energy Research;

(b) The Director, or their designee, from the Conn Center for Renewable Energy Research at University of Louisville; and

(c) An employee of the department, appointed by the Commissioner.

(4) Upon approval by the committee, the department shall deem the approved molecule as included in the definition of a building block chemical.

(5) The producer of a disapproved molecule shall be allowed to appeal the decision of the committee, ***in accordance with Section 8 of this administrative regulation.***

Section 7. Compliance Cost Fee. A non-refundable compliance cost fee of ***\$500***~~five hundred dollars (\$500)]~~ shall be submitted with all applications for preliminary tax credits for eligible renewable chemical production.

Section 8. Appeal.

(1) Appeals related to the department's decisions on authorizing additional building block chemicals shall be heard by a three (3) person administrative panel whose members shall be designated by the commissioner, **in accordance with subsection (2) of this section.**

(2) The administrative panel shall include at least one (1) person who is:

(a) A department employee; and

(b) ~~[at least one (1) person who is]~~

1. Not a department employee; and

2. Not involved or invested in any eligible business seeking or receiving a tax credit for production of renewable chemicals.

(3)~~[(5)]~~ The members of the administrative panel shall determine if the department's action ~~[being appealed]~~ was arbitrary or capricious.

(4)~~[(6)]~~ Hearings on the appeal shall be open to the public and occur at a time, date, and location designated by the commissioner.

(5)~~[(7)]~~ An appellant shall appear in person at the assigned hearing time. Failure to appear on time shall constitute grounds for dismissal of the appeal.

(6)~~[(8)]~~ An appellant shall be allowed an opportunity to present arguments for reversing the department's action.

(7)~~[(9)]~~ A representative of the department shall be allowed an opportunity to present arguments for affirming the department's action.

(8)~~[(10)]~~ The three (3) members of the administrative panel shall rule on **whether to reverse or affirm the department's action**~~[the appeal]~~ by a majority vote.

(9)~~[(11)]~~ A majority of the three (3) members of the administrative panel may affirm the action of the department.

~~12)]~~ **The administrative panel shall conduct the appeal**~~[Appeals of the panel shall be]~~ in accordance with KRS **Chapter** 13B.

Section 9. Material Incorporated by Reference. ~~[(1) The following material is incorporated by reference:]~~

(1) "Renewable Chemical Production Program Tax Credit Application", (2020)"**is incorporated by reference.**

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Agriculture, 105 Corporate Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

Ryan F. Quarles
Commissioner

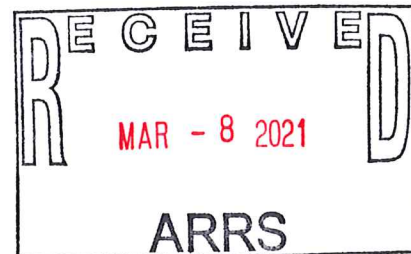


Corporate Drive
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Frankfort, KY 40601
(502) 573-0282

Kentucky Department of Agriculture

March 5, 2021

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601



Re: 302 KAR 22:150 Cervids

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 302 KAR 22:150 the Kentucky Department of Agriculture proposes the attached amendments to 302 KAR 22:150

Sincerely,

<Electronically signed this day>

Clint Quarles
Staff Attorney
Kentucky Department of Agriculture
107 Corporate Drive
Frankfort, KY 40601



SUGGESTED SUBSTITUTE

**DEPARTMENT OF AGRICULTURE
Office of the State Veterinarian**

302 KAR 22:150. Cervids.

RELATES TO: KRS 150.730-150.735, 246.030(4), 257.020, 257.030, 257.080, 257.990, Chapter 321, 9 C.F.R. 55, 81.4, 161.1-161.4

STATUTORY AUTHORITY: KRS 150.720(1), 246.295(1), 257.550, KRS 257.552

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.720(1), 246.295(1), and 257.550 require the Department of Agriculture, in cooperation with the Department of Fish and Wildlife Resources, to promulgate administrative regulations pertaining to health requirements, eradication of diseases, and identification of privately owned and farm-raised cervids maintained for the production of meat and other products. This administrative regulation establishes criteria and health requirements necessary to prevent the introduction of chronic wasting disease into Kentucky and develop a herd monitoring system, and establishes requirements for intrastate and interstate movement of farmed cervids.

Section 1. Definitions.

(1) ~~["USDA-accredited veterinarian" means a veterinarian accredited by the USDA as category II in accordance with the provisions of 9 C.F.R. 161.1 to 161.4, and licensed to practice veterinary medicine in their home state.~~

~~(2)~~ "Adjacent herd" means:

~~(a)~~ A herd of cervids occupying premises that shares~~[share]~~ a border or boundary line with premises occupied by a chronic wasting disease positive herd, including herd~~[a herd]~~ separated by a road or stream; and

~~(b)~~ A herd of cervids occupying premises that were previously occupied by a chronic wasting disease positive herd within the past five ~~(5)~~ years.]

~~(2)~~~~[(3)]~~ "Animal identification number" or "AIN" means a numbering system for the official identification of individual animals in the United States that provides a nationally unique identification number for each animal. The AIN consists of fifteen (15) digits, with the first three (3) being the country code (either 840 for the United States at large or a unique code for any U.S. territory that elects to use it in place of the 840 code).

~~(3)~~~~[(4)]~~ "APHIS" means the Animal and Plant Health Inspection Service of the United States Department of Agriculture.

~~(4)~~~~[(5)]~~ "Approved laboratory" means the National Veterinary Service Laboratory in Ames, Iowa, or any other laboratory approved by the APHIS ~~[Administrator of the Cervid and Plant Health Inspection Service of the USDA]~~.

~~(5)~~~~[(6)]~~ "Certificate of Veterinary Inspection" or "CVI" means an official document, on a form approved by the chief animal health official of the state of origin or by USDA APHIS Veterinary Services for verification of veterinary inspection that is issued by a licensed and accredited veterinarian.

~~(6)~~~~[(7)]~~ "Certified" means the status achieved by a herd that has met the standards of the Chronic Wasting Disease Herd Certification Program continuously for at least five (5) years.

~~(7)~~~~[(8)]~~ "Certified Chronic Wasting Disease (CWD) Herd" or "herd" means a group of cervids under common ownership or supervision that has achieved "certified" status in the Kentucky Herd Certification Program, the federal Chronic Wasting Disease Herd Certification Program, or a state

Chronic Wasting Disease Certification Program approved by APHIS or the State Veterinarian,
[and that is on:

(a) ~~One (1) or more parts of any single permitted premises (lot, far, or ranch); or~~

(b) ~~Two (2) or more premises that are geographically separated but on which animals have been interchanged or had direct or indirect contact with one another.]~~

~~(8)[(9)]~~ "Cervid" means deer, elk, moose, caribou, reindeer, and related species and hybrids thereof, including all members of the Cervidae family and hybrids thereof.

~~(9)[(10)]~~ "Cervid Chronic Wasting Disease Surveillance and Identification" or "CCWDSI" means the [a Cervid Management Plan that includes two (2) programs]:

(a) ~~[The]~~ Chronic Wasting Disease HCP; and

(b) ~~[The]~~ Chronic Wasting Disease HMP.

~~(10)[(14)]~~ "Cervid Herd Plan" means a written herd management agreement or premises management agreement:

(a) Developed by OSV in collaboration with the herd owner to address compliance issues within a HCP or HMP herd; or [and]

(b) That establishes the steps needed to eradicate CWD from a CWD positive herd, to control the risk of CWD in a CWD [CDD] exposed or CWD-suspect herd, or to prevent introduction of CWD into that herd or any other herd.

~~(11)[(12)]~~ "Chronic Wasting Disease" or "CWD" means a transmissible spongiform encephalopathy of cervids.

~~(12)[(13)]["Chronic Wasting Disease"]~~**"Herd Certification Program" or "HCP" means a program established by this administrative regulation to determine the CWD status of farmed cervid herds.**

~~(14) ["Chronic Wasting Disease"]~~**"Herd Monitoring Program" or "HMP" means a program established by this administrative regulation to monitor farmed cervids in harvesting facilities for CWD.**

~~(15)]~~ "Farmed cervid":

(a) Means cervid livestock that are enrolled in a CCWDSI program and are maintained for propagation, selling, trade, or barter or for taking by any harvest or slaughter method; and

(b) Does not mean any cervid that has not originated from and been continuously maintained within a herd that is enrolled in and complies with a HCP or HMP.

~~(13)[(16)]~~ "Exposed" means a cervid that is part of a CWD positive herd, or that has been exposed to a CWD-positive cervid or contaminated premises within the previous five (5) years.

~~(14)[(17)]~~ "Harvest" means to slaughter or take by hunting farmed cervids for meat and other products.

~~(15)~~ **"Herd Certification Program" or "HCP" means a program established by this administrative regulation to determine the CWD status of farmed cervid herds.**

~~(16)~~ **"Herd Monitoring Program" or "HMP" means a program established by this administrative regulation to monitor farmed cervids in harvesting facilities for CWD.**

~~(17)[(18)]~~ "Identification" means a device or means of identification approved for use under this administrative regulation by the State Veterinarian.

~~(18)[(19)]~~ "Interstate movement" means movement from another state into or out of Kentucky.

~~(19)[(20)]~~ "Intrastate movement" means movement solely within the boundaries of Kentucky.

~~(20)[(21)]~~ "Licensed and accredited veterinarian" means a veterinarian:

(a) ~~Approved by the Deputy Administrator of USDA APHIS VS and the State Veterinarian, in accordance with 9 C.F.R. Part 161, to perform functions required by cooperative state-federal cervid disease control and eradication programs; and~~

(b) ~~Who is licensed to practice veterinary medicine in Kentucky under KRS Chapter 321-]~~

~~[(21)][(22)]~~ "Move" means to carry, enter, import, [mail,] ship, or transport; to aid, abet, cause, or induce carrying, entering, importing, mailing, shipping, or transporting; to offer to carry, enter,

import, mail, ship, or transport; to receive in order to carry, enter, import, mail, ship, or transport; or to allow any of these activities.

~~(21)~~~~(22)~~~~(23)~~ "National Uniform Eartagging System" or "NUES" means a numbering system for the official identification of individual animals in the United States that provides a nationally unique identification number for each animal that is USDA approved.

~~(22)~~ **"Office of State Veterinarian" or "OSV" means that office within the Kentucky Department of Agriculture as established in KRS 246.030(4).**

~~[(24)]~~ "Official identification" means a device or means of cervid identification approved for use under 9 C.F.R. Part 55 by APHIS and the state veterinarian to uniquely identify individual cervids.]

~~(23)~~~~(25)~~ "Official Chronic Wasting Disease test" or "CWD test" means any test for the diagnosis of Chronic Wasting Disease approved by APHIS and conducted in a laboratory approved by APHIS in accordance with 9 C.F.R. Part 55.

~~(24)~~~~(26)~~ "Official eartag" means an identification tag approved by APHIS that bears an official identification number for individual animals. Beginning March 11, 2014, all official eartags manufactured bear an official eartag shield. Beginning March 11, 2015, all official eartags applied to animals bear an official eartag shield. The design, size, shape, color, and other characteristics of the official eartag depend on the needs of the users, subject to the approval of the USDA Administrator. The official eartag is tamper-resistant and has a high retention rate in the animal.

~~(25)~~~~(27)~~ "Official identification number" ~~[or "OID"]~~ means a nationally unique number that is permanently associated with a cervid and complies with:

- (a) National Uniform Eartagging System (NUES);
- (b) Animal Identification Number (AIN); or
- (c) Any other numbering system approved by the Administrator for the official identification of animals, including a group identification number.

~~(26)~~~~(28)~~ **"Office of State Veterinarian" or "OSV" means that office within the Kentucky Department of Agriculture as established in KRS 246.030(4).**

~~(27)~~~~(29)~~ "Owner" is defined by KRS 257.010(14).

~~(27)~~~~(28)~~~~(30)~~ "Person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or other legal entity.

~~(28)~~~~(29)~~ **"Physical inventory" means an inventory that confirms individual identification of each cervid by hands on observation to include physical or chemical restraint as needed.**

~~(29)~~~~(31)~~ "POL" or "Premises of Origin Location" means the land, farm, or specific parts of a farm where the cervid are physically located.]

~~[(30)]~~~~(32)~~ "Positive" means a cervid has had a diagnosis of CWD confirmed by means of two (2) official CWD tests.

~~(30)~~~~(34)~~~~(33)~~ "Premises identification number" or "PIN" means a nationally unique number allocated to a premises ~~[assigned]~~ by a state or federal animal health official and: ~~[-Tribal, or federal animal health authority to a premises that is, in the judgment of the State, Tribal, or federal animal health authority, a geographically distinct location from other premises. The PIN can be used:]~~

(a) Is used in conjunction with a producer's own livestock production numbering system to provide a nationally unique and herd-unique identification number for an animal; and

(b) Is the number system permitted by the state of origin specifically as a CWD program site.

~~(b) As a component of a or identification number (GIN).]~~

~~(31)~~~~(32)~~~~(34)~~ "Quarantine" means an imposed restriction prohibiting movement of live or dead cervids, or parts thereof, to any location without specific written approval of the State Veterinarian.

~~(32)~~~~(33)~~~~(35)~~ "Radio Frequency Identification Device" or "RFID" means a device electronically encoded with a unique identification and that complies with the applicable International Standards Organization (ISO) standards and that bears the visual number.

~~(33)~~~~(34)~~~~(36)~~ "State" means any state of the United States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, or Guam.

~~(34)~~~~(35)~~~~(37)~~ "USDA" means the United States Department of Agriculture.

~~(35)~~ **"USDA-accredited veterinarian" means a veterinarian accredited by the USDA as category II in accordance with the provisions of 9 C.F.R. 161.1 to 161.4, and licensed to practice veterinary medicine in their home state.**

~~(36)~~ "Visual inventory" means an inventory done when distance observation of identification of identification devices is possible.

Section 2. All Farmed Cervids Shall Be in a Program. Every farmed cervid in Kentucky shall be enrolled in either the Chronic Wasting Disease Herd Certification Program or the Chronic Wasting Disease Herd Monitoring Program. ~~[All farmed cervids shall follow the Chronic Wasting Disease Program Standards from the USDA.]~~

Section 3. Required CWD program Training.

~~(1)~~ Prior to initial enrollment in a CWD program, a minimum of one (1) hour initial educational training provided by the OSV ~~shall~~**is required to** be completed.

~~(2)~~ Supplemental trainings provided by OSV shall be required when there is a change in Chronic Wasting Disease prevalence, change in Kentucky program **administrative** regulations, or a change in USDA CWD program standards, or any other time deemed necessary by the State Veterinarian **to prevent the spread of disease.** Notice for any additional training ~~shall~~**will** be provided at least thirty (30) days in advance of ~~the~~**such** date.

~~(3)~~ All persons with a HCP or HMP permit at the date this administrative regulation becomes effective shall complete an educational training for one (1) hour prior to their renewal for the following year.

Section 4~~[3]~~. Chronic Wasting Disease Herd Certification Program (HCP).

(1) A HCP permit shall be required to participate in the HCP program. A HCP permit shall be valid from January 1 to December 31 of each year, regardless of the date of application or enrollment.

(a) The applicant for the HCP shall submit:

1. A complete Cervid Chronic Wasting Disease Surveillance Identification (CCWDSI) Herd Certification Program (HCP) or Herd Monitoring Program (HMP) Application;
2. A written statement by a Kentucky-licensed and USDA accredited veterinarian certifying that the veterinarian and the herd owner have a valid veterinarian-client-patient relationship; and
3. An initial [A] fee of \$150. Renewal fees the next year are described in **subsection (2) of this section.**

(b) The OSV shall grant a HCP permit within thirty (30) days after it receives the completed application package with the required fee. Incomplete applications or insufficient fees shall be returned to the applicant without approval. The OSV shall not approve any application if the applicant owes fees or fines to the KDA.

(c) A HCP participant whose permit expires prior to renewal shall be subject to the penalties established in Section ~~19~~**16** of this administrative regulation.

(2) Annual HCP permit renewal required. Fees shall be based on the officially tagged inventory submitted in **paragraph (e) of this subsection.** Renewal applicants shall:

(a) Submit a complete Cervid Chronic Wasting Disease Surveillance Identification (CCWDSI) Herd Certification Program (HCP) or Herd Monitoring Program (HMP) Application by November 30 of each year;

(b) Pay a fee of \$135 for herds up to fifty (50) cervids, \$250 for herds between fifty-one (51) and 100, or \$450 for herds containing more than 101 cervids, for applications submitted prior to December 1, preceding the applicable permit year;

(c) Pay a fee of \$150 for herds up to fifty (50) cervids, \$275 for herds between fifty-one (51) and 100, or \$500 for herds containing more than 101 cervids, for applications submitted between December 1 and December 31, preceding the applicable permit year;

(d) Pay a fee of \$250 for herds up to fifty (50) cervids, \$375 for herds between fifty-one (51) and 100, or \$600 for herds containing more than 101 cervids, for applications submitted late, January 1 and after of the applicable permit year; and

(e) Submit a current herd inventory as of the time of application submission, and the most recent reporting documents due to the OSV as required in subsection (3)(c) of this section if not already on file with the OSV.

(3) HCP Requirements.

(a) Herds enrolled in this program shall comply with the requirements established in this section and 9 C.F.R. Part 55, Subpart B, and shall follow the USDA Chronic Wasting Disease Standards, and the RFID official identification requirements of Section 8.

1. After an initial permit is issued, the participant shall enroll the herd into the HCP by obtaining movement permits for those cervids moving into the premises. Any additions subsequent to the initial delivery shall be recorded and submitted according to the other timelines established in this administrative regulation.

2. After the first year in the HCP, the participant shall:

- a. Conduct the physical inventory and continuously identify cervids as required;
- b. Provide any records required by this administrative regulation to the OSV for the cervids;

and

c. Maintain and complete the provisions of this administrative regulation and a Cervid Herd Plan, if developed.

(b) Cervid identification requirement.

1. Each cervid shall have at least two (2) forms of cervid identification prior to or at the time of the annual herd inventory, one (1) of which shall be a RFID ~~[an]~~ official identification and one (1) form shall be a visual type of identification, both of which shall be unique to that cervid within the herd.

2. A cervid of any age shall have official identification before being moved from the premises for any purpose.

(c) Cervid inventory.

1. The baseline herd inventory shall consist of the cervids that were delivered initially after program enrollment.

2. a. An annual herd inventory shall be conducted that reviews all records and includes observation of all cervids in an enclosed area, including physical restraint if necessary, to reconcile all visible identification devices with available records. This required inventory shall be conducted in January, February, March, or April.

b. Beginning May 1, the herd shall be placed in quarantine and no movement shall be permitted until the physical inventory is completed for those herds not completing a physical inventory January, February, March, or April.

3. The state veterinarian or an APHIS representative may request additional physical inventories to verify herd compliance with program standards.

4. The owner shall be responsible for assembling, handling, and restraining the cervids, and for all risks and costs incurred, to present the cervids for visual or physical inspection.

5. Additional herd inventory record inspections and reviews shall be conducted quarterly at the cervid premises or at another location mutually agreed to by the owner and the OSV.

(d) Herd Additions.

1. New cervids shall be introduced into the herd only from other herds enrolled in the Kentucky HCP, or from a herd in a state, approved by the OSV, with an USDA-approved CWD Certification Program in which CWD has never been confirmed. ~~[New cervids shall be introduced into the herd~~

~~only from other herds enrolled in the Kentucky HCP or from a herd in a state with a USDA-approved CWD Certification Program where chronic wasting disease has never been confirmed.]~~

2. New cervids shall not be introduced into the herd unless it has been approved by the State Veterinarian.

3. If cervids are introduced from a herd of lower status, the receiving herd status shall revert to the lower status.

(e) HCP Reporting requirements. The owner shall report to OSV any cervids that escape or disappear and all deaths (including cervids killed by harvest or slaughter) of cervids in the herd.

1. The reporting time frame shall be:

a. For cervids that escape or disappear, a report shall be made within forty-eight (48) hours;

b. For cervids taken by harvest, a report shall be submitted within seven (7) days; and

c. For cervids that die from illness or any other reason, a report shall be submitted within seven (7) days, ~~[- and~~

d. ~~A confirmation that population changes have not occurred in the preceding calendar month if there were no events that required reporting as established in clauses a. through c. of this subparagraph. This report shall be submitted to the OSV by the close of business on the first of each month for the activities of the previous calendar month.]~~

2. The report shall include all applicable identification numbers, including the visual tag and the date of the death, disappearance, or escape.

3. Cervids that die or are harvested shall have the required tissue specimens collected and submitted for Chronic Wasting Disease testing except if exempted in writing by request to, and approval of, the OSV. [by 9 C.F.R. 55.23.] Exemptions shall[will] only be granted in extenuating circumstances, such as natural disaster or a disease event.

4. An [In accordance with 9 C.F.R. 55.23, an] APHIS or OSV representative shall investigate herds that fail to comply with testing requirements and shall evaluate the herd's status.

5. Cervid escapes return protocol.

a. Cervids that escape may be returned to the herd only if[when]:

(i)[a.] Within seventy-two (72) hours, the cervids are[must be] re-captured and the fence is[must be] repaired and secured to prevent further escape and meet the requirements established by[ef] Kentucky Department of Fish and Wildlife Resources in 301 KAR 2:083. Any cervid recaptured after seventy-two (72) hours shall be introduced back into the herd only with written permission of the OSV; and

(ii)[b.] Within seven (7) days of initial escape, an updated inventory is[must be] provided to the OSV representative in writing.[- and]

b. An [c.] OSV representative may require physical inspection of cervids to confirm inventory.

(f) Herd Veterinarian Notice Requirement. The herd veterinarian shall be notified within twenty-four (24) hours of observance of a cervid with clinical signs suggestive of Chronic Wasting Disease.

(g) An owner maintaining separate herds shall comply with the separate-herd requirements established in 9 C.F.R. 55.23.

(h) The herd premises shall have a valid Kentucky Department of Fish and Wildlife Resources permit and shall maintain perimeter fencing meeting the requirements established in KRS 150.730 through 150.735.

(i) The owner shall maintain and provide to the OSV representative upon request the following herd records:

1. Complete inventory of cervids including the official identification[OID] and any other identification, and the age and sex of each cervid;

2. A record for each purchased or natural addition to the herd including:

a. The official identification[OID], species, age, and sex of the cervid;

b. The name and address of the person from whom the cervid was purchased;

c. The address of the herd from which the cervid was purchased;

- d. A copy of the CVI that accompanied the cervid for intrastate or interstate movement;
- e. Date the purchased addition entered the herd; and
- f. Approximate date of birth, if a natural addition;
- 3. A record of each cervid leaving the herd, including:
 - a. The date of movement, the name of the person to whom it was shipped, the place to which it was shipped, and a copy of the Certificate of Veterinary Inspection related to the shipment; and
 - b. A cervid's death or harvest on the premises, including the date of death, the apparent cause of death; the cervid's age, sex, and state-federal official individual cervid identification; date and laboratory submitted for CWD testing, if required; and the disposition of the cervid's carcass. If the carcass was removed from the premises, the record shall identify the carcass' destination and recipient;
- 4. A record of all individual CWD tests that were conducted on cervids in the herd;
- 5. Records received from the herd veterinarian related to the veterinary services he or she provided to the herd; and
- 6. All individual identification numbers (from, for example, tags and electronic implants) associated with each cervid.

(j) Herd status levels.

- 1. Upon a herd being first enrolled in the Herd Certification Program, the herd shall be placed in first-year status, except that if the herd is comprised solely of cervids obtained from herds already enrolled in the Herd Certification Program, the newly enrolled herd shall have the same status as the lowest status of any herd that provided cervids for the herd.
- 2. If a herd continues to comply with the requirements of the Herd Certification Program, the herd status shall be upgraded by one (1) year on the anniversary of the program enrollment date.
- 3. One (1) year after the date a herd was placed in fifth-year status, the herd status shall be changed to "certified". The herd shall remain in "certified" status as long as the herd remains enrolled in the program, if its status is not revoked or suspended in accordance with this administrative regulation or 9 C.F.R. 55.24.
- 4. A herd owner shall be issued a certificate of "Certified" status upon completing the Herd Certification Program requirements established in this administrative regulation.
- 5. Renewal of a Certified Cervid Herd. A herd shall be certified for twelve (12) months. For continuous certification, adherence to the provisions in this administrative regulation and all other state laws and administrative regulations pertaining to holding cervids shall be required.
- 6. The herd enrollment date shall be the latter date of:
 - a. The physical inventory being completed in accordance with paragraph (c) of this subsection;

or

- b. The initial cervid delivery.
- (k) Disease surveillance procedures. A cervid that is twelve (12) months or older that dies for any reason, including harvest, shall be tested for CWD. The herd owner shall be responsible for sample collection by an OSV certified CWD sample collector, submission, and testing. Samples for testing shall be properly collected, handled, and preserved, and shall be submitted to an approved laboratory within seven (7) days of death and collection. If incidents of mass casualty or mortality events are confirmed by the OSV, the OSV may waive the testing requirements for all cervids and instead only require testing based on risk.
- (l) USDA Chronic Wasting Disease Program Standards deficiencies may, based on the nature of the deficiencies, require a Cervid Herd Plan in lieu of, or in addition to, administrative penalties.

Section 5[4]. Chronic Wasting Disease Herd Monitoring Program (HMP).

- (1) A HMP permit shall be required to participate in the HMP program. A HMP permit shall be valid from January 1 to December 31 of each year, regardless of the date of application or enrollment.

- (a) The applicant for the HMP program shall submit:

1. A complete Cervid Chronic Wasting Disease Surveillance Identification (CCWDSI) Herd Certification Program (HCP) or Herd Monitoring Program (HMP) Application;

2. A written statement by a Kentucky-licensed and USDA accredited veterinarian, certifying that the veterinarian and the herd owner have a valid veterinarian-client relationship; and

3. A fee of \$500.

(b) OSV shall grant the HMP permit within thirty (30) days after it receives the completed application package with the required fee. Incomplete applications or insufficient fees shall be returned to the applicant without approval. The OSV shall not approve any application if the applicant owes any fees or fines to the KDA.

(c) HMP participants whose permit expires prior to renewal shall be subject to the penalties in Section ~~19[46]~~ of this administrative regulation.

(2) Annual HMP permit renewal required. Renewal applicants shall:

(a) Submit a completed Cervid Chronic Wasting Disease Surveillance Identification (CCWDSI) Herd Certification Program (HCP) or Herd Monitoring Program (HMP) Application by November 30 of each year.

(b) Pay a fee of \$500.

(c) Submit a current herd inventory as of the moment of application, and the most recent reporting documents due to the OSV as required in subsection (4)(c) of this section if not already on file with the OSV.

(d) The permit shall be effective January 1 through December 31 of each year.

(3) Restrictions and limitations on HMP-enrolled cervids and herds.

(a) A cervid shall not leave an HMP-enrolled herd alive.

(b) A cervid shall not be moved to another HMP-enrolled herd.

(c) A HMP herd, or any cervid within a HMP-enrolled herd shall not be eligible to enter the HCP.

(4) HMP Requirements.

(a) Herds enrolled in this program shall comply with the requirements established in this section ~~and the requirements in 9 C.F.R. Part 55, Subpart B~~.

1. After an initial permit is issued, the participant shall enroll the herd into the HMP by obtaining movement permits for those cervids moving into the premises. Any additions subsequent to the initial delivery shall be recorded and submitted according to the other timelines established in this administrative regulation.

2. After the first year in the HMP, the participant shall:

a. Conduct the inventory and continuously identify cervids as required;

b. Submit records to the OSV for the cervids that are required in this administrative regulation;

and

c. Maintain and complete the provisions of this administrative regulation and a herd-specific Cervid Herd Plan, if developed.

(b) Cervid identification requirement.

1. Each cervid twelve (12) months of age or older shall have at least two (2) forms of cervid identification, one (1) of which shall be a RFID ~~an~~ official identification and one (1) form shall be a visual type of identification, which shall be unique to that cervid within the herd. ~~for any purpose.]~~

~~2. A cervid of any age shall have official identification before being moved from the premises for any purpose.]~~

3. Any untagged cervid that dies or is harvested shall be officially identified and shall be CWD tested.

(c) Cervid inventory.

1. The baseline herd inventory shall consist of the cervids that were delivered initially after program enrollment.

2. An annual herd inventory shall be conducted and submitted to the OSV that reviews all records and documents that would change the baseline herd inventory.

3. The state veterinarian or an APHIS representative may request a visual or physical inventory to verify herd compliance with program standards.

4. The owner shall be responsible for assembling, handling, and restraining the cervids, and for all risks and costs incurred, to present the cervids for inspection.

(d) Herd Additions. New cervids shall be introduced into the herd only from other herds enrolled in the Kentucky HCP, or from a herd in a state, approved by the OSV, with an USDA-approved CWD Certification Program in which CWD has never been confirmed.

(e) If evidence of natural additions are found, a Cervid Herd Plan shall be developed to eliminate future breeding. ~~[No]~~ Intentional breeding shall not be ~~[is]~~ allowed.

(f) ~~[(e)]~~ HMP Participant Reporting requirements. The owner shall report to the OSV any cervids that escape or disappear, and all deaths (including cervids killed by harvest or slaughter) of cervids in the herd.

1. This report shall be submitted to the OSV by the close of business on the first business day of each month for the activities of the previous calendar month.

2. The report shall include applicable cervid identification numbers, including the visual tag; the date of the death, disappearance, escape; and the dates the CWD tests were submitted for testing.

3. All cervids that die or are harvested shall have the required tissue specimens collected and submitted for CWD testing.

4. In accordance with 9 C.F.R. 55.23, an APHIS or OSV representative shall investigate herds that fail to comply with testing requirements, which shall be considered noncompliance. ~~[and shall evaluate the herd's status.]~~

5. Cervid escapes return protocol.

a. Cervids that escape may be returned to the herd only if/when:

~~(i)[a.]~~ Within seventy-two (72) hours, the cervids are ~~[must be]~~ re-captured and the fence ~~[is must be]~~ repaired and secured to prevent further escape and meet the requirements established by ~~[of]~~ Kentucky Department of Fish and Wildlife Resources in 301 KAR 2:083. Any cervid recaptured after seventy-two (72) hours shall be introduced back into the herd only with written permission of the OSV; and

~~(ii)[b.]~~ Within seven (7) days of initial escape, an updated inventory ~~[is must be]~~ provided to the OSV representative in writing. ~~[; and]~~

b. An ~~[c.]~~ OSV representative may require physical inspection of cervids to confirm inventory.

(g) ~~[(f)]~~ Herd Veterinarian Notice Requirement. The herd veterinarian shall be notified within twenty-four (24) hours of observance of a cervid with clinical signs suggestive of Chronic Wasting Disease.

~~(g) An owner maintaining separate herds shall comply with the separate herds requirements established in 9 C.F.R. 55.23.~~

(h) The herd premises shall have a valid Kentucky Department of Fish and Wildlife Resources permit and shall maintain perimeter fencing meeting the requirements established in KRS 150.730 through 150.735.

(i) The owner shall maintain and provide to the OSV representative upon request the following herd records:

1. Complete inventory of cervids, including the official identification [OID], and any other identification, and the age and sex of each cervid;

2. A record for each purchased or natural addition to the herd, including:

a. The official identification [OID], species, age, and sex of the cervid;

b. The name and address of the person from whom the cervid was purchased;

c. The address of the herd from which the cervid was purchased;

d. A copy of the CVI that accompanied the cervid for intra- or interstate movement;

e. Date the purchased addition entered the herd; and

f. Approximate date of birth, if a natural addition;

3. A record of each cervid leaving the herd including a record of each cervid that died or was harvested on the premises including:
 - a. The date of death;
 - b. The apparent cause of death;
 - c. The cervid's age and sex;
 - d. State-federal official individual cervid identification, date, and laboratory submitted for CWD testing, if required; and
 - e. The disposition of the cervid's carcass. If the carcass left the premises, the record shall identify the carcass destination and recipient;
4. A record of all individual CWD tests that were conducted on cervids in the herd;
5. Records received from the herd veterinarian related to the veterinary services he or she provided to the herd; and
6. All individual identification numbers (from, for example, tags and electronic implants) associated with each cervid.
 - (i) ~~[(k-)]~~ Disease surveillance procedures. A cervid that is twelve (12) months or older that dies for any reason, including harvest, shall be tested for CWD. The herd owner shall be responsible for sample collection, submission, and testing. Samples for testing shall be properly collected, handled, and preserved, and shall be submitted to an approved laboratory within thirty (30) days of collection.

Section 6[5]. Testing, Investigation, and Quarantine.

- (1) Surveillance testing procedures.
 - (a) CWD testing shall be in accordance with the procedures established in 9 C.F.R. 55.8.
 - (b) A positive or non-negative ~~[diagnosis]~~ of CWD by an approved laboratory shall be sent to the National Veterinary Service Laboratory for confirmation.
 - (c) If required tissues from test eligible cervids are not submitted for laboratory diagnosis by the cervid owner, the state veterinarian shall revoke the permit or implement a mutually agreed upon Cervid Herd Plan.
- (2) Investigation of CWD-positive cervids.
 - (a) An epidemiological investigation in accordance with 9 C.F.R. 55.23 shall be conducted by OSV or APHIS VS for all cervids diagnosed at an approved laboratory CWD positive or suspect.
 - (b) All CWD-positive herds and all source, exposed, and adjacent herds and the premises where these herds are located shall be investigated epidemiologically by OSV.
- (3) Duration of Quarantine. Quarantines issued by the State Veterinarian for CWD in accordance with this administrative regulation shall be removed as established in paragraphs (a) and (b) of this subsection~~[section]~~.
 - (a) A premises shall not be removed from quarantine until after completion of the cervid herd plan and five (5) years of compliance with all provisions of 9 C.F.R. Part 55.
 - (b) An adjacent or exposed herd or premises may be removed from quarantine only after an epidemiological investigation and by order of the OSV.

Section 7. CWD Sample Collection Training.

- (1) Required CWD samples shall~~[must]~~ be collected by a licensed accredited veterinarian or an individual certified by the OSV.
- (2) To become certified, an individual shall~~[must]~~:
 - (a) Submit a request for certification to the OSV at Statevet@ky.gov or contact the OSV:~~[,]~~ and
 - (b) Attend a training course offered by the OSV.
- (3) Certification is valid for five (5) years from the date of training course or until new sample collection protocols have been mandated by OSV or USDA. Renewal certification shall require~~[requires]~~ completion of a renewal form.

(4) Certified individuals shall comply with CWD collection and submission protocols. Failure to submit quality samples may result in revocation of certification status.

(5) Certified individual shall maintain record of sample collections for ten (10) years. Records shall include a copy of the laboratory submission form or a generated report which contains the following:

- (a) Date of sample collection;
- (b) Premises Name and City where sample collection occurred;
- (c) List of official identification devices of each sample;
- (d) Number of samples collected; and
- (e) Name of Laboratory where samples were submitted.

Section 8[6]. Certificate of Veterinary Inspection.

(1) A Certificate of Veterinary Inspection shall remain valid for thirty (30) days after date of inspection.

(2) A CVI shall contain:

(a) Identification of each animal recorded on the certificate;

(b) A RFID and visual identification for each cervid; ~~[An official identification (OID) for each cervid;]~~

(c) The species, breed, sex, and age of each cervid;

(d) The name and address of the owner, cosigner, or agent shipping the cervid, and phone number of each;

(e) The location from which the animal is loaded for movement;

(f) The name and address of the consignee or person receiving the cervid;

(g) The location at which the animal will be received;

(h) The purpose of the movement and the total number of cervids;

(i) All non-applicable data fields crossed out by the USDA-accredited Veterinarian prior to signing;

(j) The movement permit number issued by the OSV;

(k) The following statement or one substantially similar: "I certify as an accredited veterinarian that the above described animals have been inspected by me on this date and that they are not showing signs of infection or communicable disease. The vaccinations and results of tests are as indicated on the certificate. The animals listed on this certificate meet the state of destination requirements and federal interstate requirements"; and

(l) The signature, USDA category II accreditation number, and phone number of the veterinarian.

(3) Paper submitted Certificate of Veterinary Inspection.

(a) The first physical page shall be mailed or otherwise delivered to the office of the state veterinarian in the origin state [OSV] within seven (7) days of the date it is written.

(b) An exact replica image (a scan in a PDF) of the first page may be submitted in lieu of the first physical page required in paragraph (a) of this subsection by submitting via electronic mail within seven (7) days of the date it is written to Statevet@ky.gov.

(c) The second page shall physically accompany the cervid being moved and be readily accessible during the movement.

(d) The third page shall be sent to the Animal Health Official in the state of destination within seven (7) days of the date it is written.

(e) The fourth page shall be retained by the issuing veterinarian for at least five (5) years from the date of issuance.

(f) A legible copy of any supplemental pages shall be stapled to the original and each copy of the CVI.

(4) Electronically submitted CVIs.

(a) Certificate of Veterinary Inspection and Permit may be submitted via an importable format as approved by the OSV. ~~[allowed by USAHA AHSIS Subcommittee on Data Standards' "standard XML schema document."]~~

(b) Cervids moving with an electronically submitted Certificate of Veterinary Inspection shall be accompanied by a paper copy or have the electronic material stored on a device that may be read immediately upon request.

(5) A person shall not issue a CVI bearing the seal of the Commonwealth of Kentucky unless that person is a Kentucky licensed and USDA category II ~~[-]~~ accredited veterinarian.

Section 9[7]. Movement Permit.

(1) A person shall not move a cervid within or into Kentucky without first obtaining a permit from the OSV at least forty-eight (48) hours prior to the movement, unless approved in writing by the OSV after consideration of the risks involved.

(2) Proof of required vaccinations or other applicable health practices to ensure disease prevention based on place or origin, as found on the Web site at www.kyagr.gov, shall be completed prior to permit issuance. Instructions for a permit may be obtained on the Web site.

(3) Movement permit instructions may be obtained by calling OSV at 502-573-0282, Monday through Friday, 8 a.m. EST to 4:30 p.m. EST.

(4) Required testing or vaccination. Required tests and vaccinations shall be performed or verified by a:

(a) Licensed and USDA category II ~~[-]~~ accredited veterinarian;

(b) Designee of the State Veterinarian; or

(c) Designee of the federal government.

(5) Required tests shall be conducted at no expense to the Commonwealth of Kentucky.

(6) Required laboratory tests shall be conducted in a state-federal approved laboratory.

Section 10[8]. Official Identification and Other Required Identification.

(1) Beginning July 1, 2020, RFID official identification shall be applied in any initial tagging event, retagging event, or anytime a cervid is restrained by any method, including permitted movements. All imported cervids shall require an RFID at the time of importation beginning July 1, 2020. This RFID shall be cross referenced with any other existing official identification at the time of application. Existing official identification shall not be removed without the prior written approval of the OSV.

(2)[(4)] Methods of official identification. An official individual identification shall consist of a set of alphanumeric characters or physical characteristics that are uniquely associated with an individual cervid and that constitute:

(a) Official USDA NUES that was applied prior to June 30, 2020; and

(b) An RFID that [if]:

1. The RFID uniquely identifies the animal and is USDA approved;
2. The RFID is attached to ~~[or implanted in]~~ the animal;
3. The RFID is registered to a PIN or to a person; and
4. Only one (1) official RFID is placed on an animal.

(3)[(2)] Use of more than one (1) official eartag.[

~~(a) More than one (1) official eartag may be used by the OSV for tagging events required by subsection (6) of this section.]~~

(a) Any ~~[(b) The]~~ person applying the additional official eartag shall record the following information about the event, and submit to the OSV within seven (7) days the required information, and maintain the record for at least ten (10) ~~[five (5)]~~ years:

1. The date the additional official eartag is added;
2. The reason for the additional official eartag device; and

3. The official identification numbers of the new official eartag and the one or ones already attached to the animal.

(b) ~~[(c)]~~ An eartag with an Animal Identification Number (AIN) beginning with the 840 prefix (either radio frequency identification or visual-only tag) may be applied to a cervid that is already officially identified with one (1) or more National Uniform Eartagging System tags. The person applying the Animal Identification Number eartag shall record the date the Animal Identification Number tag is added and the official identification numbers of any official eartags and shall maintain those records for at least ten (10) ~~[five (5)]~~ years.

(4) ~~[(3)]~~ Removal or loss of official identification devices.

(a) ~~[Official identification devices shall provide permanent identification of cervids and ensure the ability to find the source of animal disease outbreaks.]~~ Removal of official identification ~~[these devices]~~ shall be prohibited, except as approved in writing by the OSV or a USDA area veterinarian in charge if a device needs to be replaced.

(b) If a cervid loses an official identification device ~~[and needs a new one]~~:

1. A replacement tag with a different official identification number may be applied. The person applying a new official identification device with a different official identification number shall record the following information about the event and maintain the record for at least ten (10) ~~[five (5)]~~ years:

- a. The date the new official identification device was added;
- b. The official identification number on the device; and
- c. The official identification number on the old device, if known.

2. Replacement of a temporary identification device with a new official identification device shall be considered to be a retagging event and shall be noted on the Retag Form. [

~~(4) Circumstances under which OSV may authorize replacement of an official identification device include, for example:~~

- ~~(a) Deterioration of the device that or the number can no longer be read;~~
- ~~(b) Infection at the site where the device is attached, necessitating application of a device at another location (for example, a slightly different location of an eartag in the ear);~~
- ~~(c) Malfunction of the electronic component of a radio frequency identification (RFID) device;~~

~~or~~

~~(d) Incompatibility or inoperability of the electronic component of an RFID device with the management system or unacceptable functionality of the management system due to use of an RFID device.~~

~~(e) 982 tags may be replaced with RFID after written permission from the OSV has been given.]~~

(5) Removal of official identification ~~[OID]~~, without prior written approval of the OSV shall be strictly prohibited.

(6) Replacement records required. Any time an official identification device is replaced, as authorized by OSV or the USDA, the person replacing the device shall record the following information about the event and maintain the record for at least five (5) years:

- (a) The date on which the previous device was removed;
- (b) Contact information for the location where the device was removed;
- (c) The official identification number (to the extent possible) on the device that was removed;
- (d) The type of device removed (for example, metal eartag or RFID eartag);
- (e) The reason for the removal of the former device;
- (f) The new official identification number on the replacement device; and
- (g) The type of replacement device that was applied to replace the former device. [

~~(7) Beginning July 1, 2020, RFID-OID shall be applied in any initial tagging event, retagging event, or anytime a cervid is restrained by any method, including permitted movements. All imported cervids shall require an RFID at the time of importation beginning July 1, 2020. This RFID shall be cross referenced with any other existing OID at the time of application. Existing OID shall not be removed.]~~

Section 11[9]. Premises of Origin Location.

(1) POL information shall be provided by the person seeking the permit for the premises from which the cervids are to be loaded upon seeking a movement permit.

(2) The POL of the specific location the cervids were loaded shall include:

- (a) A PIN issued by the USDA or the Animal Health Official in the state of origin or a LID; and
- ~~(b) [(2)]~~ The owner at the time of movement and that owner's address and contact information.

Section 12[Section 10]. Requirements for Interstate Movement into Kentucky.

(1) A person or hauler shall not move a cervid into Kentucky without first obtaining a CVI from a licensed and USDA category II accredited veterinarian; [and]

(2) Obtained a movement permit from the OSV at least forty-eight (48) hours prior to movement and scheduling by the OSV, that includes a scheduled appointment for delivery of cervids between the hours of 6 a.m. and 9 p.m.; and

(3) [(2)] An OSV representative, USDA representative, or an USDA category II[-] accredited veterinarian shall be present for the unloading of the cervids at the point of destination at the time scheduled in (2) and shall be responsible for removing the transport seal and observing the offloading.

(4) [(3)] An entry permit shall not be issued for a cervid that does not have certified status or an equivalent status, as documented by a certificate issued in accordance with 9 C.F.R. 81.4. An entry permit shall not be issued for a cervid that originated in, or at any time resided, in a state where CWD has been confirmed in either wild or captive cervids.

(5) [(4)] An entry permit shall not be issued for a cervid that is not:

- (a) Negative to an official tuberculosis test within ninety (90) days of entry; or
- (b) Originating from a cervid tuberculosis accredited herd. The herd accreditation number and the last herd test date shall be listed on the CVI.

Section 13[Section 11]. Requirements for Movement Within Kentucky.

(1) A movement permit issued by the OSV and CVI shall be required prior to cervid movement within Kentucky.

(2) A CVI shall not be required if the movement is from the same herd to a different permitted premises within the same farm, if the cervid has official identification [OID], prior to the movement.

(3) Movement shall not commence until forty-eight (48) hours after the issuance of the permit.

(4) An OSV representative, USDA representative, or an USDA category II[-] accredited veterinarian shall be present at the loading at the point of origin, or the unloading of the cervids at the point of destination for movements to a different premises. [For movements established in subsection (2) of this section, no a designee at time of unloading shall not be required.]

(5) The requirements of this section shall be the responsibility of the owners, agents, and haulers of the moved cervid.

Section 14[Section 12]. Requirements for Movement for Export from Kentucky.

(1) A movement permit issued by the OSV and CVI shall be required prior to cervid movement from Kentucky.

(2) Movement shall not commence until forty-eight (48) hours after the issuance of the permit by the OSV and scheduling.

(3) All cervids being exported from Kentucky shall have movement documentation and any applicable permits as required by the state of destination, and have these documents immediately available for inspection.

(4) A cervid shall not leave Kentucky until:

(a) The CVI is written to meet the state of destination requirements by a Kentucky licensed category II veterinarian; [and]

(b) The owner, agent, or hauler contacts the OSV designee at least forty-eight (48) hours in advance of the movement to schedule an appointment for departure inspection and movement documentation between the hours of 6 a.m. and 9 p.m.

Section 15[Section 13]. Requirements for Movement Through Kentucky. Cervids moving through Kentucky shall have movement documentation and any applicable permits as required by the state of destination, and have these documents immediately available for inspection. A Kentucky movement permit shall not be required for direct movement through Kentucky. Persons directly moving cervids through Kentucky may voluntarily obtain a permit from the OSV.

Section 16. Reindeer Exhibition.

(1) Any reindeer exhibiting in the state of Kentucky ~~shall~~**[must]** obtain written permission of the OSV.

(2) Requests for an exhibition permit shall be made to the OSV in writing or electronically at statevet@ky.gov a minimum of ten (10) business days prior to the movement to the exhibit.

Section 17[44]. Voluntary Accreditation and Certification Programs.

(1) Cervid owners wishing to seek a voluntary herd certification for brucellosis shall follow the provisions established in APHIS 91-45-16, Brucellosis in Cervidae.

(2) Cervid owners wishing to seek a voluntary herd accreditation for tuberculosis eradication shall follow the provisions established in APHIS 91-45-011, Bovine Tuberculosis Eradication. (3) After the completion of terms in APHIS 91-45-011 or APHIS 91-45-16, the OSV shall issue a certificate, for the respective disease, that shall be valid in Kentucky for a period of thirty-six (36) months from issuance.

Section 18[45]. Retention of Records.

(1) Intrastate movement or sales documents shall be maintained by both the buyer and the seller for at least ten (10) ~~[five (5)]~~ years after the movement of the cervids.

(2) Official identification device distribution records. Any veterinarian who distributes official identification [OIDS], shall maintain distribution lists and documents for at least ten (10) ~~[five (5)]~~ years after issuance.

(3) Interstate movement records and documentation that is required by this administrative regulation shall be maintained for at least ten (10) ~~[five (5)]~~ years.

(4) Herd plans, inventory records, and disposition of cervid records shall be maintained for at least ten (10) ~~[five (5)]~~ years.

Section 19[46]. Penalties.

(1) Penalties for failure to comply with standards established in this administrative regulation.

(a) OSV shall have the authority to revoke or suspend a herd's permit for the Herd Certification Program or the Herd Monitoring Program if a person:

1. Falsifies information on an enrollment application, falsifies subsequent information required for continued enrollment, or refuses to produce documents requested by a representative of OSV;

2. Fails to comply with requirements in this administrative regulation on cervid identification, cervid inventory, herd records, testing, or cervid movement;

3. Or facility fails to remain in compliance with KRS Chapters 257 or 150, or any administrative regulation promulgated under the authority thereof;

4. Fails to comply with an instruction from a representative of OSV; or

5. Fails to produce any document require to be created or maintained by this administrative regulation.

(b) In accordance with KRS 257.990, a permit holder shall be subject to a monetary fine for violation of this administrative regulation.

(2) Penalties for failure to comply with Section 8, 9, 10, or 11~~[6, 7, 8, or 9]~~ of this administrative regulation.

(a) In accordance with KRS 150.740(6), a person shall be guilty of a Class D felony upon conviction; and

(b) Upon conviction of a second violation, a person shall be permanently ineligible for renewal of a captive cervid permit.

(3) In accordance with KRS 150.740(7), the Kentucky Department of Fish and Wildlife Resources shall have authority to seize captive cervids that were imported into the Commonwealth in violation of this administrative regulation or KRS 150.740 and 257.550.

(4) Any person whose permit is revoked shall not reapply to the HCP or HMP programs for a period of five (5) years.

(5) Herds enrolled in HMP or HCP programs whose permit holders fail to reapply for permits on or before the application deadline shall be immediately placed in quarantine. These herds shall be subject to a physical herd inventory prior to permit issuance. A hunting or harvest shall not take place during the quarantine period. Herds shall not be re-enrolled in any program without first paying the initial fee of \$150 and the renewal fee as required in either the HCP or HMP program.

(6) Removal of official identification ~~[OID]~~, from a cervid without written permission of the OSV shall result in the loss of status for all cervids inside the herd.

Section 20~~[17]~~. Material Incorporated by Reference.

(1) The following material is incorporated by reference:

(a) "Cervid Chronic Wasting Disease Surveillance Identification (CCWDSI) Herd Certification Program (HCP) or Herd Monitoring Program (HMP) Application", October 2020; ~~[February 2019]~~

(b) "Deceased Animal Report", May 2019;

(c) "Herd/Flock Additions", October 2020 ~~[May 2019]~~;

(d) "Herd/Flock Deletions", October 2020 ~~[May 2019]~~;

(e) "Retag Form", February 2017;

(f) "USDA Chronic Wasting Disease Program Standards", May 2019;

(g) "APHIS 91-45-16, Brucellosis in Cervidae", September 2003; and

(h) "APHIS 91-45-011, Bovine Tuberculosis Eradication", January 1999.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Agriculture, Division of Animal Health, 111 Corporate Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

CONTACT PERSON: Clint Quarles, Staff Attorney, Kentucky Department of Agriculture, 107 Corporate Drive, Frankfort Kentucky 40601, phone (502) 782-0284, fax (502) 564-2133, email clint.quarles@ky.gov.



ANDY BESHEAR
GOVERNOR

REBECCA W. GOODMAN
SECRETARY

ANTHONY R. HATTON
COMMISSIONER

**ENERGY AND ENVIRONMENT CABINET
DEPARTMENT FOR ENVIRONMENTAL PROTECTION**

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March 5, 2021



Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

Re: 401 KAR 60:005. 40 C.F.R. Part 60 standards of performance for new stationary sources.
401 KAR 63:002. 40 C.F.R. Part 63 national emission standards for hazardous air pollutants.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by the above referenced administrative regulations, the Energy and Environment Cabinet, Division for Air Quality, proposes the attached amendments.

Sincerely,

 Recoverable Signature

X *Melissa Duff*

Signed by: Melissa Duff
Melissa Duff, Director
Division for Air Quality
300 Sower Boulevard, 2nd Floor
Frankfort, Kentucky 40601

MKD/md
Attachments

SUGGESTED SUBSTITUTE

Final 2/26/2021 8:21 AM

**ENERGY AND ENVIRONMENT CABINET
Department for Environmental Protection
Division for Air Quality**

401 KAR 63:002. 40 C.F.R. Part 63 national emission standards for hazardous air pollutants.

RELATES TO: KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120, 40 C.F.R. Part 63, 42 U.S.C. 7401, 7412, 7414, 7416, 7601

STATUTORY AUTHORITY: KRS 224.10-100(5), 224.20-120, 42 U.S.C. 7401, 7412, 7414, 7416, 7601

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100(5) authorizes the cabinet to promulgate administrative regulations for the prevention, abatement, and control of air pollution. **42 U.S.C. 7412(l) authorizes each state to establish standards for the federal NESHAP program for the U.S. EPA delegation of implementation and enforcement authority to the Commonwealth of Kentucky.** This administrative regulation establishes national emission standards for hazardous air pollutants by referencing the National Emission Standards for Hazardous Air Pollutants (NESHAP) codified in 40 C.F.R. 63.1 through 63.56, 63.70 through 63.81, and 63.100 through 63.12005. ~~**[Delegation of implementation and enforcement authority for the federal NESHAP program from the United States Environmental Protection Agency (U.S. EPA) to the Commonwealth of Kentucky is provided under 42 U.S.C. 7412(l).]**~~

Section 1. Definitions. (1) Except as ~~**established**~~**[provided]** in subsection (2) of this section, terms used in this administrative regulation shall have the meaning given to them in 40 C.F.R. Part 63.

(2) "Administrator" means the Secretary of the Energy and Environment Cabinet unless a specific provision of 40 C.F.R. Part 63 states that the United States Environmental Protection Agency retains authority.

Section 2. Applicability. This administrative regulation shall apply to sources subject to 40 C.F.R. Part 63. A source subject to this administrative regulation shall comply with:

(1) 40 C.F.R. 63.1 ~~through~~**[tø]** 63.16, Table 1 (Subpart A), General Provisions, as published July 1, 2020 and at 85 F.R. 39980, 85 F.R. 40386, 85 F.R. 40594, 85 F.R. 40740, 85 F.R. 41100, 85 F.R. 41276, 85 F.R. 41411, 85 F.R. 41680, 85 F.R. 42074, 85 F.R. 44216, 85 F.R. 44960, 85 F.R. 45476, 85 F.R. 49084, 85 F.R. 49434, 85 F.R. 49724, and 85 F.R. 63394~~[2016]~~**[2016]**;

(2) 40 C.F.R. 63.40 ~~through~~**[tø]** 63.56, Tables 1 ~~through~~**[tø]** 2 (Subpart B), Requirements for Control Technology Determinations for Major Sources in Accordance With Clean Air Act Sections, Sections 112(g) and 112(j), as applicable, as published July 1, ~~2020~~**[2016]**;

(3) 40 C.F.R. 63.70 ~~through~~**[tø]** 63.81 (Subpart D), Regulations Governing Compliance Extensions for Early Reductions of Hazardous Air Pollutants, as applicable, as published July 1, ~~2020~~**[2016]**;

(4)(a) 40 C.F.R. 63.100 ~~through~~ 63.107, Tables 1 ~~through~~ 4 (Subpart F), National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry, as published July 1, ~~2020~~;

(b) 40 C.F.R. 63.110 ~~through~~ 63.153, Tables 1 ~~through~~ 37, and Figure 1 (Subpart G), National Emission Standards for Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater, as published July 1, ~~2020~~;

(c) 40 C.F.R. 63.160 ~~through~~ 63.183, Tables 1 ~~through~~ 4 (Subpart H), National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks, as published July 1, ~~2020~~;

(d) 40 C.F.R. 63.190 ~~through~~ 63.193 (Subpart I), National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks, as published July 1, ~~2020~~;

(e) 40 C.F.R. 63.210 ~~through~~ 63.217 (Subpart J), National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production, as published July 1, ~~2020~~;

(f) 40 C.F.R. 63.300 ~~through~~ 63.313, Appendix A (Subpart L), National Emission Standards for Coke Oven Batteries, as published July 1, ~~2020~~;

(g) 40 C.F.R. 63.320 ~~through~~ 63.326 (Subpart M), National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities, as published July 1, ~~2020~~;

(h) 40 C.F.R. 63.340 ~~through~~ 63.348, Table 1 (Subpart N), National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks, as published July 1, ~~2020~~;

(i) 40 C.F.R. 63.360 ~~through~~ 63.368 (Subpart O), Ethylene Oxide Emissions Standards for Sterilization Facilities, as published July 1, ~~2020~~;

(j) 40 C.F.R. 63.400 ~~through~~ 63.407, Table 1 (Subpart Q), National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers, as published July 1, ~~2020~~;

(k) 40 C.F.R. 63.420 ~~through~~ 63.429, Table 1 (Subpart R), National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations), as published July 1, ~~2020~~;

(l) 40 C.F.R. 63.440 ~~through~~ 63.459, Table 1 (Subpart S), National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry, as published July 1, ~~2020~~;

(m) 40 C.F.R. 63.460 ~~through~~ 63.471, Appendices A ~~through~~ B (Subpart T), National Emission Standards for Halogenated Solvent Cleaning, as published July 1, ~~2020~~;

(n) 40 C.F.R. 63.480 ~~through~~ 63.507, Tables 1 ~~through~~ 9 (Subpart U), National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins, as published July 1, ~~2020~~;

(o) 40 C.F.R. 63.520 ~~through~~ 63.529, Table 1 (Subpart W), National Emission Standards for Hazardous Air Pollutants for Epoxy Resins Production and Non-Nylon Polyamides Production, as published July 1, ~~2020~~;

(p) 40 C.F.R. 63.541 ~~through~~ 63.552, Tables 1 ~~through~~ 3 (Subpart X), National Emission Standards for Hazardous Air Pollutants from Secondary Lead Smelting, as published July 1, ~~2020~~;

(q) 40 C.F.R. 63.560 ~~through~~ 63.568 (Subpart Y), National Emission Standards for Marine Tank Vessel Loading Operations, as published July 1, ~~2020~~;

(r) 40 C.F.R. 63.600 ~~through~~ 63.611, Tables 1 ~~through~~ 5, and Appendix A (Subpart AA), National Emission Standards for Hazardous Air Pollutants From Phosphoric Acid Manufacturing Plants, as published July 1, ~~2020~~;

(s) 40 C.F.R. 63.620 ~~through~~ 63.632, Tables 1 ~~through~~ 5, and Appendix A (Subpart BB), National Emission Standards for Hazardous Air Pollutants From Phosphate Fertilizers Production Plants, as published July 1, ~~2020~~;

(t) 40 C.F.R. 63.640 ~~through~~ 63.671, Appendix (Subpart CC), National Emission Standards for Hazardous Air Pollutants from Petroleum Refineries, as published July 1, ~~2020~~;

(u) 40 C.F.R. 63.680 ~~through~~ 63.698, Tables 1 ~~through~~ 5 (Subpart DD), National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations, as published July 1, ~~2020~~;

(v) 40 C.F.R. 63.701 ~~through~~ 63.708, Table 1 (Subpart EE), National Emission Standards for Magnetic Tape Manufacturing Operations, as published July 1, ~~2020~~;

(w) 40 C.F.R. 63.741 ~~through~~ 63.759, Table 1, and Appendix A (Subpart GG), National Emission Standards for Aerospace Manufacturing and Rework Facilities, as published July 1, ~~2020~~;

(x) 40 C.F.R. 63.760 ~~through~~ 63.777, Appendix (Subpart HH), National Emission Standards for Hazardous Air Pollutants From Oil and Natural Gas Production Facilities, as published July 1, ~~2020~~;

(y) 40 C.F.R. 63.780 ~~through~~ 63.789, Tables 1 ~~through~~ 3, and Appendices A ~~through~~ B (Subpart II), National Emission Standards for Shipbuilding and Ship Repair (Surface Coating), as published July 1, ~~2020~~;

(z) 40 C.F.R. 63.800 ~~through~~ 63.808, Tables 1 ~~through~~ 6 (Subpart JJ), National Emission Standards for Wood Furniture Manufacturing Operations, as published July 1, ~~2020~~;

(aa) 40 C.F.R. 63.820 ~~through~~ 63.831, Table 1, and Appendix A (Subpart KK), National Emission Standards for the Printing and Publishing Industry, as published July 1, ~~2020~~;

(bb) 40 C.F.R. 63.840 ~~through~~ 63.855, Tables 1 ~~through~~ 4, and Appendix A (Subpart LL), National Emission Standards for Hazardous Air Pollutants for Primary Aluminum Reduction Plants, as published July 1, ~~2020~~;

(cc) 40 C.F.R. 63.860 ~~through~~ 63.868, Table 1 (Subpart MM), National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills, as published July 1, ~~2020~~;

(dd) 40 C.F.R. 63.880 ~~through~~ 63.888, Table 1 (Subpart NN), National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing at Area Sources, as published July 1, ~~2020~~ ~~at 80 Fed. Reg. 45325, July 29, 2016~~;

(ee) 40 C.F.R. 63.900 ~~through~~ 63.908 (Subpart OO), National Emission Standards for Tanks - Level 1, as published July 1, ~~2020~~;

(ff) 40 C.F.R. 63.920 ~~through~~ 63.929 (Subpart PP), National Emission Standards for Containers, as published July 1, ~~2020~~;

(gg) 40 C.F.R. 63.940 ~~through~~ 63.949 (Subpart QQ), National Emission Standards for Surface Impoundments, as published July 1, ~~2020~~;

(hh) 40 C.F.R. 63.960 ~~through~~ 63.967 (Subpart RR), National Emission Standards for Individual Drain Systems, as published July 1, ~~2020~~;

(ii) 40 C.F.R. 63.980 through 63.999 (Subpart SS), National Emission Standards for Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process, as published at July 1, 2020 and at 85 F.R. 40386[2016];

(jj) 40 C.F.R. 63.1000 through 63.1018 (Subpart TT), National Emission Standards for Equipment Leaks - Control Level 1, as published July 1, 2020[2016];

(kk) 40 C.F.R. 63.1019 through 63.1039, Table 1 (Subpart UU), National Emission Standards for Equipment Leaks - Control Level 2 Standards, as published July 1, 2020[2016];

(ll) 40 C.F.R. 63.1040 through 63.1050 (Subpart VV), National Emission Standards for Oil-Water Separators and Organic-Water Separators, as published July 1, 2020[2016];

(mm) 40 C.F.R. 63.1060 through 63.1067 (Subpart WW), National Emission Standards for Storage Vessels (Tanks) - Control Level 2, as published July 1, 2020[2016];

(nn) 40 C.F.R. 63.1080 through 63.1097, Tables 1 through and 2 (Subpart XX), National Emission Standards for Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations, as published July 1, 2020 and at 85 F.R. 40386[2016];

(oo) 40 C.F.R. 63.1100 through 63.1114 (Subpart YY), National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards, as published July 1, 2020 and at 85 F.R. 40386[2016];

(pp) 40 C.F.R. 63.1155 through 63.1166, Table 1 (Subpart CCC), National Emission Standards for Hazardous Air Pollutants for Steel Pickling - HCl Process Facilities and Hydrochloric Acid Regeneration Plants, as published July 1, 2020[2016];

(qq) 40 C.F.R. 63.1175 through 63.1197, Tables 1 through 2, and Appendix A (Subpart DDD), National Emission Standards for Hazardous Air Pollutants for Mineral Wool Production, as published July 1, 2020[2016];

(rr) 40 C.F.R. 63.1200 through 63.1221, Table 1, and Appendix (Subpart EEE), National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors, as published July 1, 2020[2016];

(ss) 40 C.F.R. 63.1250 through 63.1261, Tables 1 through 9 (Subpart GGG), National Emission Standards for Pharmaceuticals Production, as published July 1, 2020[2016];

(tt) 40 C.F.R. 63.1270 through 63.1287, Tables 1 through and 2 (Subpart HHH), National Emission Standards for Hazardous Air Pollutants From Natural Gas Transmission and Storage Facilities, as published July 1, 2020[2016];

(uu) 40 C.F.R. 63.1290 through 63.1309, Appendix, and Tables 1 through 3 (Subpart III), National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production, as published July 1, 2020[2016];

(vv) 40 C.F.R. 63.1310 through 63.1336, Tables 1 through 9 (Subpart JJJ), National Emission Standards for Hazardous Air Pollutant Emissions: Group IV Polymers and Resins, as published July 1, 2020[2016];

(ww) 40 C.F.R. 63.1340 through 63.1358, Tables 1 through 2[Table 1] (Subpart LLL), National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry, as published July 1, 2020 and at 85 F.R. 63394[2016];

(xx) 40 C.F.R. 63.1360 through 63.1369, Tables 1 through 4 (Subpart MMM), National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production, as published July 1, 2020[2016];

(yy) 40 C.F.R. 63.1380 through 63.1389, Tables 1 through 2, and Appendices A through C (Subpart NNN), National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing, as published July 1, 2020[2016];

(zz) 40 C.F.R. 63.1400 through 63.1419, Tables 1 through 6 (Subpart OOO), National Emission Standards for Hazardous Air Pollutant Emissions: Manufacture of Amino/Phenolic Resins, as published July 1, 2020[2016];

(aaa) 40 C.F.R. 63.1420 through 63.1439, Tables 1 through 8 (Subpart PPP), National Emission Standards for Hazardous Air Pollutant Emissions for Polyether Polyols Production, as published July 1, 2020[2016];

(bbb) 40 C.F.R. 63.1440 through 63.1459, Table 1, and Figure 1 (Subpart QQQ), National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelting, as published July 1, 2020[2016];

(ccc) 40 C.F.R. 63.1500 through 63.1519, Tables 1 through 3, and Appendix A (Subpart RRR), National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production, as published July 1, 2020[2016];

(ddd) 40 C.F.R. 63.1541 through 63.1551, Table 1 (Subpart TTT), National Emission Standards for Hazardous Air Pollutants for Primary Lead Smelting, as published July 1, 2020[2016];

(eee) 40 C.F.R. 63.1560 through 63.1579, Tables 1 through 44, and Appendix A (Subpart UUU), National Emission Standards for Hazardous Air Pollutants for Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units, as published July 1, 2020[2016];

(fff) 40 C.F.R. 63.1580 through 63.1595, Tables 1 through 2[Table 4] (Subpart VVV), National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works, as published July 1, 2020[2016];

(ggg) 40 C.F.R. 63.1620 through 63.1661, Table 1 (Subpart XXX), National Emission Standards for Hazardous Air Pollutants for Ferroalloys Production: Ferromanganese and Silicomanganese, as published July 1, 2020[2016];

(hhh) 40 C.F.R. 63.1930 through 63.1990, Table 1 (Subpart AAAA), National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills, as published July 1, 2020 and at 85 F.R. 64398[2016];

(iii) 40 C.F.R. 63.2130 through 63.2192, Tables 1 through 8[6] (Subpart CCCC), National Emission Standards for Hazardous Air Pollutants: Manufacturing of Nutritional Yeast, as published July 1, 2020[2016];

(jjj) 40 C.F.R. 63.2230 through 63.2292, Tables 1A through 10, and Appendix A (Subpart DDDD), National Emission Standards for Hazardous Air Pollutants: Plywood and Composite Wood Products, as published July 1, 2020 and at 85 F.R. 49434 and 85 F.R. 51668[2016];

(kkk) 40 C.F.R. 63.2330 through 63.2406, Tables 1 through 12 (Subpart EEEE), National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (Non-Gasoline), as published July 1, 2020 and at 85 F.R. 40740[2016];

(lll) 40 C.F.R. 63.2430 through 63.2550, Tables 1 through 12 (Subpart FFFF), National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing, as published July 1, 2020 and at 85 F.R. 42074 and 85 F.R. 49084[2016];

(mmm) 40 C.F.R. 63.2830 through 63.2872 (Subpart GGGG), National Emission Standards for Hazardous Air Pollutants: Solvent Extraction for Vegetable Oil Production, as published July 1, 2020[2016];

(nnn) 40 C.F.R. 63.2980 ~~through~~ 63.3004, Tables 1 ~~through~~ 2, and Appendices A ~~through~~ B (Subpart HHHH), National Emission Standards for Hazardous Air Pollutants for Wet-Formed Fiberglass Mat Production, as published July 1, ~~2020~~;

(ooo) 40 C.F.R. 63.3080 ~~through~~ 63.3176, Tables 1 ~~through~~ 5~~4~~, and Appendix A (Subpart IIII), National Emission Standards for Hazardous Air Pollutants: Surface Coating of Automobiles and Light-Duty Trucks, as published July 1, ~~2020~~ and at 85 F.R. 41100~~2016~~;

(ppp) 40 C.F.R. 63.3280 ~~through~~ 63.3420, Tables 1 ~~through~~ 2 (Subpart JJJJ), National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating, as published July 1, ~~2020~~ and at 85 F.R. 41276~~2016~~;

(qqq) 40 C.F.R. 63.3480 ~~through~~ 63.3561, Tables 1 ~~through~~ 8~~7~~ (Subpart KKKK), National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Cans, as published July 1, ~~2020~~;

(rrr) 40 C.F.R. 63.3880 ~~through~~ 63.3981, Tables 1 ~~through~~ 5~~4~~, and Appendix A (Subpart MMMM), National Emission Standards for Hazardous Air Pollutants for Surface Coating of Miscellaneous Metal Parts and Products, as published July 1, ~~2020~~ and at 85 F.R. 41100~~2016~~;

(sss) 40 C.F.R. 63.4080 ~~through~~ 63.4181, Tables 1 ~~through~~ 5~~4~~ (Subpart NNNN), National Emission Standards for Hazardous Air Pollutants: Surface Coating of Large Appliances, as published July 1, ~~2020~~ and at 85 F.R. 41100~~2016~~;

(ttt) 40 C.F.R. 63.4280 ~~through~~ 63.4371, Tables 1 ~~through~~ 6~~5~~ (Subpart OOOO), National Emission Standards for Hazardous Air Pollutants: Printing, Coating, and Dyeing of Fabrics and Other Textiles, as published July 1, ~~2020~~ and at 85 F.R. 41100~~2016~~;

(uuu) 40 C.F.R. 63.4480 ~~through~~ 63.4581, Tables 1 ~~through~~ 5~~4~~, and Appendix A (Subpart PPPP), National Emission Standards for Hazardous Air Pollutants for Surface Coating of Plastic Parts and Products, as published July 1, ~~2020~~ and at 85 F.R. 41100~~2016~~;

(vvv) 40 C.F.R. 63.4680 ~~through~~ 63.4781, Tables 1 ~~through~~ 6 (Subpart QQQQ), National Emission Standards for Hazardous Air Pollutants: Surface Coating of Wood Building Products, as published July 1, ~~2020~~;

(www) 40 C.F.R. 63.4880 ~~through~~ 63.4981, Tables 1 ~~through~~ 5~~4~~ (Subpart RRRR), National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Furniture, as published July 1, ~~2020~~ and at 85 F.R. 41100~~2016~~;

(xxx) 40 C.F.R. 63.5080 ~~through~~ 63.5200, Tables 1 ~~through~~ 3~~2~~ (Subpart SSSS), National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Coil, as published July 1, ~~2020~~;

(yyy) 40 C.F.R. 63.5280 ~~through~~ 63.5460, Figure 1, and Tables 1 ~~through~~ 2 (Subpart TTTT), National Emission Standards for Hazardous Air Pollutants for Leather Finishing Operations, as published July 1, ~~2020~~;

(zzz) 40 C.F.R. 63.5480 ~~through~~ 63.5610, Tables 1 ~~through~~ 10 (Subpart UUUU), National Emission Standards for Hazardous Air Pollutants for Cellulose Products Manufacturing, as published July 1, ~~2020~~ and at 85 F.R. 39980~~2016~~;

(aaa) 40 C.F.R. 63.5680 ~~through~~ 63.5779, Tables 1 ~~through~~ 8 (Subpart VVVV), National Emission Standards for Hazardous Air Pollutants for Boat Manufacturing, as published July 1, ~~2020~~;

(bbbb) 40 C.F.R. 63.5780 ~~through~~ 63.5935, Tables 1 ~~through~~ 15, and Appendix A (Subpart WWWW), National Emissions Standards for Hazardous Air Pollutants: Reinforced Plastic Composites Production, as published July 1, 2020~~[2016]~~;

(cccc) 40 C.F.R. 63.5980 ~~through~~ 63.6015, Tables 1 ~~through~~ 17 (Subpart XXXX), National Emission Standards for Hazardous Air Pollutants: Rubber Tire Manufacturing, as published July 1, 2020 and at 85 F.R. 44752~~[2016]~~;

(dddd) 40 C.F.R. 63.6080 ~~through~~ 63.6175, Tables 1 ~~through~~ 7 (Subpart YYYY), National Emission Standards for Hazardous Air Pollutants for Stationary Combustion Turbines, as published July 1, 2020~~[2016]~~;

(eeee) 40 C.F.R. 63.6580 ~~through~~ 63.6675, Tables 1a ~~through~~ 8, and Appendix A (Subpart ZZZZ), National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines, as published July 1, 2020~~[2016]~~;

(ffff) 40 C.F.R. 63.7080 ~~through~~ 63.7143, Tables 1 ~~through~~ ~~9~~~~[to 8]~~ (Subpart AAAAA), National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing Plants, as published July 1, 2020 and at 85 F.R. 44960~~[2016]~~;

(gggg) 40 C.F.R. 63.7180 ~~through~~ 63.7195, Tables 1 ~~through~~ 2 (Subpart BBBB), National Emission Standards for Hazardous Air Pollutants for Semiconductor Manufacturing, as published July 1, 2020~~[2016]~~;

(hhhh) 40 C.F.R. 63.7280 ~~through~~ 63.7352, Table 1 (Subpart CCCCC), National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks, as published July 1, 2020~~[2016]~~;

(iiii) 40 C.F.R. 63.7480 ~~through~~ 63.7575, Tables 1 ~~through~~ 13 (Subpart DDDDD), National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters, as published July 1, 2020~~[2016]~~;

(jjjj) 40 C.F.R. 63.7680 ~~through~~ 63.7765, Table 1 (Subpart EEEEE), National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries, as published July 1, 2020 and at 85 F.R. 56080~~[2016]~~;

(kkkk) 40 C.F.R. 63.7780 ~~through~~ 63.7852, Tables 1 ~~through~~ 4~~[Table 1 to 4]~~ (Subpart FFFFF), National Emission Standards for Hazardous Air Pollutants for Integrated Iron and Steel Manufacturing Facilities, as published July 1, 2020~~[2016]~~;

(llll) 40 C.F.R. 63.7880 ~~through~~ 63.7957, Tables 1 ~~through~~ 3 (Subpart GGGGG), National Emission Standards for Hazardous Air Pollutants: Site Remediation, as published July 1, 2020 and at 85 F.R. 41680~~[2016]~~;

(mmmm) 40 C.F.R. 63.7980 ~~through~~ 63.8105, Tables 1 ~~through~~ ~~11~~~~[to 10]~~ (Subpart HHHHH), National Emission Standards for Hazardous Air Pollutants: Miscellaneous Coating Manufacturing, as published July 1, 2020 and at 85 F.R. 49724~~[2016]~~;

(nnnn) 40 C.F.R. 63.8180 ~~through~~ 63.8266, Tables 1 ~~through~~ 10 (Subpart IIIII), National Emission Standards for Hazardous Air Pollutants: Mercury Emissions From Mercury Cell Chlor-Alkali Plants, as published July 1, 2020~~[2016]~~;

(oooo) 40 C.F.R. 63.8380 ~~through~~ 63.8515, Tables 1 ~~through~~ 10 (Subpart JJJJJ), National Emission Standards for Hazardous Air Pollutants for Brick and Structural Clay Products Manufacturing, as published July 1, 2020~~[2016]~~;

(pppp) 40 C.F.R. 63.8530 through[te] 63.8665, Tables 1 through[te] 11 (Subpart KKKKK), National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing, as published July 1, 2020[2016];

(qqqq) 40 C.F.R. 63.8680 through[te] 63.8698, Tables 1 through[te] 7 (Subpart LLLLL), National Emission Standards for Hazardous Air Pollutants: Asphalt Processing and Asphalt Roofing Manufacturing, as published July 1, 2020[2016];

(rrrr) 40 C.F.R. 63.8780 through[te] 63.8830, Tables 1 through[te] 7 (Subpart MMMMM), National Emission Standards for Hazardous Air Pollutants: Flexible Polyurethane Foam Fabricating Operations, as published July 1, 2020[2016];

(ssss) 40 C.F.R. 63.8980 through[te] 63.9075, Tables 1 through[te] 7 (Subpart NNNNN), National Emission Standards for Hazardous Air Pollutants: Hydrochloric Acid Production, as published July 1, 2020[2016];

(tttt) 40 C.F.R. 63.9280 through[te] 63.9375, Tables 1 through[te] 7 (Subpart PTTTT), National Emission Standards for Hazardous Air Pollutants for Engine Test Cells/Stands, as published July 1, 2020[2016];

(uuuu) 40 C.F.R. 63.9480 through[te] 63.9570, Table 1 (Subpart QQQQQ), National Emission Standards for Hazardous Air Pollutants for Friction Materials Manufacturing Facilities, as published July 1, 2020[2016];

(vvvv) 40 C.F.R. 63.9580 through[te] 63.9652, Tables 1 through[te] 2 (Subpart RRRRR), National Emission Standards for Hazardous Air Pollutants: Taconite Iron Ore Processing, as published July 1, 2020 and at 85 F.R. 45476[2016];

(www) 40 C.F.R. 63.9780 through[te] 63.9824, Tables 1 through[te] 11 (Subpart SSSSS), National Emission Standards for Hazardous Air Pollutants for Refractory Products Manufacturing, as published July 1, 2020[2016];

(xxxx) 40 C.F.R. 63.9880 through[te] 63.9942, Tables 1 through[te] 5 (Subpart TTTTT), National Emissions Standards for Hazardous Air Pollutants for Primary Magnesium Refining, as published July 1, 2020[2016];

(yyyy) 40 C.F.R. 63.9980 through[te] 63.10042, Tables 1 through[te] 9, and Appendices A through E[te-B] (Subpart UUUUU), National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units, as published July 1, 2020 and at 85 F.R. 55744[2016];

(zzzz) 40 C.F.R. 63.10382 through[te] 63.10448, Table 1 (Subpart WWWW), National Emission Standards for Hospital Ethylene Oxide Sterilizers, as published July 1, 2020[2016];

(aaaa) 40 C.F.R. 63.10680 through[te] 63.10692, Table 1 (Subpart YYYYY), National Emission Standards for Hazardous Air Pollutants for Area Sources: Electric Arc Furnace Steelmaking Facilities, as published July 1, 2020[2016];

(bbbb) 40 C.F.R. 63.10880 through[te] 63.10906, Tables 1 through[te] 4 (Subpart ZZZZ), National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries Area Sources, as published July 1, 2020 and at 85 F.R. 56080[2016];

(cccc) 40 C.F.R. 63.11080 through[te] 63.11100, Tables 1 through[te] 3 (Subpart BBBBB), National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities, as published July 1, 2020[2016];

(dddd) 40 C.F.R. 63.11110 through[te] 63.11132, Tables 1 through[te] 3 (Subpart CCCCC), National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Dispensing Facilities, as published July 1, 2020[2016];

(eeeeee) 40 C.F.R. 63.11140 through[tø] 63.11145, Tables 1 through[tø] 2 (Subpart DDDDDD), National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production Area Sources, as published July 1, 2020[2016];

(fffff) 40 C.F.R. 63.11146 through[tø] 63.11152, Table 1 (Subpart EEEEE), National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelting Area Sources, as published July 1, 2020[2016];

(ggggg) 40 C.F.R. 63.11153 through[tø] 63.11159, Table 1 (Subpart FFFFF), National Emission Standards for Hazardous Air Pollutants for Secondary Copper Smelting Area Sources, as published July 1, 2020[2016];

(hhhhh) 40 C.F.R. 63.11160 through[tø] 63.11168, Table 1 (Subpart GGGGG), National Emission Standards for Hazardous Air Pollutants for Primary Nonferrous Metals Area Sources - Zinc, Cadmium, and Beryllium, as published July 1, 2020[2016];

(iiii) 40 C.F.R. 63.11169 through[tø] 63.11180, Table 1 (Subpart HHHHH), National Emission Standards for Hazardous Air Pollutants: Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources, as published July 1, 2020[2016];

(jjjj) 40 C.F.R. 63.11193 through[tø] 63.11237, Tables 1 through[tø] 8 (Subpart JJJJJ), National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers Area Sources, as published July 1, 2020[2016];

(kkkkk) 40 C.F.R. 63.11393 through[tø] 63.11399, Table 1 (Subpart LLLLL), National Emission Standards for Hazardous Air Pollutants for Acrylic and Modacrylic Fibers Production Area Sources, as published July 1, 2020[2016];

(lllll) 40 C.F.R. 63.11400 through[tø] 63.11406 (Subpart MMMMM), National Emission Standards for Hazardous Air Pollutants for Carbon Black Production Area Sources, as published July 1, 2020[2016];

(mmmmm) 40 C.F.R. 63.11407 through[tø] 63.11413, Tables 1 through[tø] 2 (Subpart NNNNN), National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources: Chromium Compounds, as published July 1, 2020[2016];

(nnnnn) 40 C.F.R. 63.11414 through[tø] 63.11420, Table 1 (Subpart OOOOO), National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production and Fabrication Area Sources, as published July 1, 2020[2016];

(ooooo) 40 C.F.R. 63.11421 through[tø] 63.11427, Table 1 (Subpart PPPPP), National Emission Standards for Hazardous Air Pollutants for Lead Acid Battery Manufacturing Area Sources, as published July 1, 2020[2016];

(ppppp) 40 C.F.R. 63.11428 through[tø] 63.11434, Table 1 (Subpart QQQQQ), National Emission Standards for Hazardous Air Pollutants for Wood Preserving Area Sources, as published July 1, 2020[2016];

(qqqqq) 40 C.F.R. 63.11435 through[tø] 63.11445, Table 1 (Subpart RRRRR), National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing Area Sources, as published July 1, 2020[2016];

(rrrrr) 40 C.F.R. 63.11448 through[tø] 63.11460, Tables 1 through[tø] 2 (Subpart SSSSS), National Emission Standards for Hazardous Air Pollutants for Glass Manufacturing Area Sources, as published July 1, 2020[2016];

(sssss) 40 C.F.R. 63.11462 through[te] 63.11473, Table 1 (Subpart TTTTTT), National Emission Standards for Hazardous Air Pollutants for Secondary Nonferrous Metals Processing Area Sources, as published July 1, 2020[2016];

(ttttt) 40 C.F.R. 63.11494 through[te] 63.11503, Tables 1 through[te] 9 (Subpart VVVVVV), National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources, as published July 1, 2020[2016];

(uuuuu) 40 C.F.R. 63.11504 through[te] 63.11512, Table 1 (Subpart WWWWWW), National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Plating and Polishing Operations, as published July 1, 2020[2016];

(vvvvv) 40 C.F.R. 63.11514 through[te] 63.11523, Tables 1 through[te] 2 (Subpart XXXXXX), National Emission Standards for Hazardous Air Pollutants Area Source Standards for Nine Metal Fabrication and Finishing Source Categories, as published July 1, 2020[2016];

(wwwww) 40 C.F.R. 63.11524 through[te] 63.11532, Table 1 (Subpart YYYYYY), National Emission Standards for Hazardous Air Pollutants for Area Sources: Ferroalloys Production Facilities, as published July 1, 2020[2016];

(xxxxx) 40 C.F.R. 63.11544 through[te] 63.11557, Table 1 (Subpart ZZZZZZ), National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Aluminum, Copper, and Other Nonferrous Foundries, as published July 1, 2020[2016];

(yyyyy) 40 C.F.R. 63.11559 through[te] 63.11567, Tables 1 through[te] 5 (Subpart AAAAAA), National Emission Standards for Hazardous Air Pollutants for Area Sources: Asphalt Processing and Asphalt Roofing Manufacturing, as published July 1, 2020[2016];

(zzzzz) 40 C.F.R. 63.11579 through[te] 63.11588, Tables 1 through[te] 6 (Subpart BBBBBB), National Emission Standards for Hazardous Air Pollutants for Area Sources: Chemical Preparations Industry, as published July 1, 2020[2016];

(aaaaa) 40 C.F.R. 63.11599 through[te] 63.11607, Table 1 (Subpart CCCCCC), National Emission Standards for Hazardous Air Pollutants for Area Sources: Paints and Allied Products Manufacturing, as published July 1, 2020[2016];

(bbbbb) 40 C.F.R. 63.11619 through[te] 63.11627, Table 1 (Subpart DDDDDD), National Emission Standards for Hazardous Air Pollutants for Area Sources: Prepared Feeds Manufacturing, as published July 1, 2020[2016];

(ccccc) 40 C.F.R. 63.11640 through[te] 63.11652, Table 1 (Subpart EEEEE), National Emission Standards for Hazardous Air Pollutants: Gold Mine Ore Processing and Production Area Source Category, as published July 1, 2020[2016]; or

(ddddd) 40 C.F.R. 63.11860 through[te] 63.12005, Tables 1 through[te] 10 (Subpart HHHHHH), National Emission Standards for Hazardous Air Pollutant Emissions for Polyvinyl Chloride and Copolymers Production, as published July 1, 2020[2016]; and

(5) The applicable test methods, procedures, and other provisions codified in 40 C.F.R. Part 63, Appendices A through E, as published July 1, 2020 and at 85 F.R. 63394[2016].

Section 3. Reporting Requirements. All documentation required by this administrative regulation to be submitted to the U.S. EPA shall also be submitted to the cabinet[A source shall submit all documentation required by this administrative regulation to both the cabinet and U.S. EPA].

CONTACT PERSON: Matthew Dollar, Environmental Scientist, Division for Air Quality, 300 Sower Boulevard, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 782-6468, fax (502) 564-4245, e-mail matthew.dollar@ky.gov.



ANDY BESHEAR
GOVERNOR

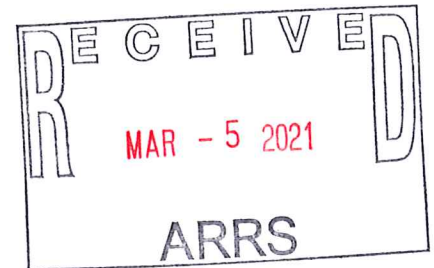
**ENERGY AND ENVIRONMENT CABINET
DEPARTMENT FOR ENVIRONMENTAL PROTECTION**

300 SOWER BOULEVARD
FRANKFORT, KENTUCKY 40601
TELEPHONE: 502-564-0323
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REBECCA W. GOODMAN
SECRETARY

ANTHONY R. HATTON
COMMISSIONER

March 5, 2021




Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

Re: 401 KAR 60:005. 40 C.F.R. Part 60 standards of performance for new stationary sources.
401 KAR 63:002. 40 C.F.R. Part 63 national emission standards for hazardous air pollutants.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by the above referenced administrative regulations, the Energy and Environment Cabinet, Division for Air Quality, proposes the attached amendments.

Sincerely,

 Recoverable Signature

X *Melissa Duff*

Signed by: Melissa Duff
Melissa Duff, Director
Division for Air Quality
300 Sower Boulevard, 2nd Floor
Frankfort, Kentucky 40601

MKD/md
Attachments

SUGGESTED SUBSTITUTE

Final 2/23/2021 3:54 PM

**ENERGY AND ENVIRONMENT CABINET
Department for Environmental Protection
Division for Air Quality**

401 KAR 60:005. 40 C.F.R. Part 60 standards of performance for new stationary sources.

RELATES TO: KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120, 40 C.F.R. Part 60, 42 U.S.C. 7411

STATUTORY AUTHORITY: KRS 224.10-100(5), 224.20-120, 42 U.S.C. 7411

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100(5) authorizes the cabinet to promulgate administrative regulations for the prevention, abatement, and control of air pollution. **42 U.S.C. 7411(c)(1) authorizes each state to establish standards for the federal NSPS program for the U.S. EPA delegation of implementation and enforcement authority to the Commonwealth of Kentucky.** This administrative regulation establishes the standards of performance for new stationary sources by referencing the Standards of Performance for New Stationary Sources (NSPS) codified in 40 C.F.R. Part 60. ~~**[Delegation of implementation and enforcement authority for the federal NSPS program from the U.S. Environmental Protection Agency to the Commonwealth of Kentucky is provided by 42 U.S.C. 7411(c)(1).]**~~

Section 1. Definitions. (1) Except as **established[provided]** in subsection (2) of this section, terms used in this administrative regulation shall have the meaning given to them in 40 C.F.R. Part 60.

(2) "Administrator" means the Secretary of the Energy and Environment Cabinet unless a specific provision of 40 C.F.R. Part 60 states that the U.S. Environmental Protection Agency retains authority.

Section 2. Applicability. This administrative regulation shall apply to sources subject to 40 C.F.R. Part 60. A source subject to this administrative regulation shall comply with:

(1) 40 C.F.R. 60.1 ~~through~~ 60.19, Table 1 (Subpart A), General Provisions, as published July 1, 2020 and at 85 F.R. 57739 and 85 F.R. 63394[2016];

(2)(a) 40 C.F.R. 60.40 ~~through~~ 60.46 (Subpart D), Standards of Performance for Fossil-Fuel-Fired Steam Generators, as published July 1, 2020[2016];

(b) 40 C.F.R. 60.40Da ~~through~~ 60.52Da (Subpart Da), Standards of Performance for Electric Utility Steam Generating Units, as published July 1, 2020[2016];

(c) 40 C.F.R. 60.40b ~~through~~ 60.49b (Subpart Db), Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units, as published July 1, 2020[2016];

(d) 40 C.F.R. 60.40c ~~through~~ 60.48c (Subpart Dc), Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units, as published July 1, 2020[2016];

(e) 40 C.F.R. 60.50 ~~through~~ 60.54 (Subpart E), Standards of Performance for Incinerators, as published July 1, 2020[2016];

(f) 40 C.F.R. 60.50a through[te] 60.59a (Subpart Ea), Standards of Performance for Municipal Waste Combustors for Which Construction is Commenced After December 20, 1989 and On or Before September 20, 1994, as published July 1, 2020[2016];

(g) 40 C.F.R. 60.50b through[te] 60.59b (Subpart Eb), Standards of Performance for Large Municipal Waste Combustors for Which Construction is Commenced After September 20, 1994 or for Which Modification or Reconstruction is Commenced After June 19, 1996, as published July 1, 2020[2016];

(h) 40 C.F.R. 60.50c through[te] 60.58c, Tables 1A through 3~~[Tables 1 to 3]~~ (Subpart Ec), Standards of Performance for New Stationary Sources: Hospital/Medical/Infectious Waste Incinerators, as published July 1, 2020[2016];

(i) 40 C.F.R. 60.60 through[te] 60.66 (Subpart F), Standards of Performance for Portland Cement Plants, as published July 1, 2020[2016];

(j) 40 C.F.R. 60.70 through[te] 60.74 (Subpart G), Standards of Performance for Nitric Acid Plants, as published July 1, 2020[2016];

(k) 40 C.F.R. 60.70a through[te] 60.77a (Subpart Ga), Standards of Performance for Nitric Acid Plants for Which Construction, Reconstruction, or Modification Commenced After October 14, 2011, as published July 1, 2020[2016];

(l) 40 C.F.R. 60.80 through[te] 60.85 (Subpart H), Standards of Performance for Sulfuric Acid Plants, as published July 1, 2020[2016];

(m) 40 C.F.R. 60.90 through[te] 60.93 (Subpart I), Standards of Performance for Hot Mix Asphalt Facilities, as published July 1, 2020[2016];

(n) 40 C.F.R. 60.100 through[te] 60.109 (Subpart J), Standards of Performance for Petroleum Refineries, as published July 1, 2020[2016];

(o) 40 C.F.R. 60.100a through[te] 60.109a, Table 1 (Subpart Ja), Standards of Performance for Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After May 14, 2007, as published July 1, 2020[2016];

(p) 40 C.F.R. 60.110 through[te] 60.113 (Subpart K), Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After June 11, 1973, and Prior to May 19, 1978, as published July 1, 2020[2016];

(q) 40 C.F.R. 60.110a through[te] 60.115a (Subpart Ka), Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984, as published July 1, 2020[2016];

(r) 40 C.F.R. 60.110b through[te] 60.117b (Subpart Kb), Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984, as published July 1, 2020[2016];

(s) 40 C.F.R. 60.120 through[te] 60.123 (Subpart L), Standards of Performance for Secondary Lead Smelters, as published July 1, 2020[2016];

(t) 40 C.F.R. 60.130 through[te] 60.133 (Subpart M), Standards of Performance for Secondary Brass and Bronze Production Plants, as published July 1, 2020[2016];

(u) 40 C.F.R. 60.140 through[te] 60.144 (Subpart N), Standards of Performance for Primary Emissions from Basic Oxygen Process Furnaces for Which Construction is Commenced After June 11, 1973, as published July 1, 2020[2016];

(v) 40 C.F.R. 60.140a through[te] 60.145a (Subpart Na), Standards of Performance for Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced After January 20, 1983, as published July 1, 2020[2016];

(w) 40 C.F.R. 60.150 through[te] 60.156 (Subpart O), Standards of Performance for Sewage Treatment Plants, as published July 1, 2020[2016];

(x) 40 C.F.R. 60.160 through[te] 60.166 (Subpart P), Standards of Performance for Primary Copper Smelters, as published July 1, 2020[2016];

(y) 40 C.F.R. 60.170 through[te] 60.176 (Subpart Q), Standards of Performance for Primary Zinc Smelters, as published July 1, 2020[2016];

(z) 40 C.F.R. 60.180 through[te] 60.186 (Subpart R), Standards of Performance for Primary Lead Smelters, as published July 1, 2020[2016];

(aa) 40 C.F.R. 60.190 through[te] 60.195 (Subpart S), Standards of Performance for Primary Aluminum Reduction Plants, as published July 1, 2020[2016];

(bb) 40 C.F.R. 60.200 through[te] 60.205 (Subpart T), Standards of Performance for the Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants, as published July 1, 2020[2016];

(cc) 40 C.F.R. 60.210 through[te] 60.215 (Subpart U), Standards of Performance for the Phosphate Fertilizer Industry: Superphosphoric Acid Plants, as published July 1, 2020[2016];

(dd) 40 C.F.R. 60.220 through[te] 60.225 (Subpart V), Standards of Performance for the Phosphate Fertilizer Industry: Diammonium Phosphate Plants, as published July 1, 2020[2016];

(ee) 40 C.F.R. 60.230 through[te] 60.235 (Subpart W), Standards of Performance for the Phosphate Fertilizer Industry: Triple Superphosphate Plants, as published July 1, 2020;

(ff) 40 C.F.R. 60.240 through[te] 60.245 (Subpart X), Standards of Performance for the Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities, as published July 1, 2020[2016];

(gg) 40 C.F.R. 60.250 through[te] 60.258 (Subpart Y), Standards of Performance for Coal Preparation and Processing Plants, as published July 1, 2020[2016];

(hh) 40 C.F.R. 60.260 through[te] 60.266 (Subpart Z), Standards of Performance for Ferroalloy Production Facilities, as published July 1, 2020[2016];

(ii) 40 C.F.R. 60.270 through[te] 60.276 (Subpart AA), Standards of Performance for Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974, and On or Before August 17, 1983, as published July 1, 2020[2016];

(jj) 40 C.F.R. 60.270a through[te] 60.276a (Subpart AAa), Standards of Performance for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 17, 1983, as published July 1, 2020[2016];

(kk) 40 C.F.R. 60.280 through[te] 60.285 (Subpart BB), Standards of Performance for Kraft Pulp Mills, as published July 1, 2020[2016];

(ll) 40 C.F.R. 60.280a through[te] 60.288a (Subpart BBa), Standards of Performance for Kraft Pulp Mill Affected Sources for Which Construction, Reconstruction, or Modification Commenced After May 23, 2013, as published July 1, 2020[2016];

(mm) 40 C.F.R. 60.290 through[te] 60.296 (Subpart CC), Standards of Performance for Glass Manufacturing Plants, as published July 1, 2020[2016];

(nn) 40 C.F.R. 60.300 through[te] 60.304 (Subpart DD), Standards of Performance for Grain Elevators, as published July 1, 2020[2016];

(oo) 40 C.F.R. 60.310 ~~through~~ 60.316 (Subpart EE), Standards of Performance for Surface Coating of Metal Furniture, as published July 1, 2020[2016];

(pp) 40 C.F.R. 60.330 ~~through~~ 60.335 (Subpart GG), Standards of Performance for Stationary Gas Turbines, as published July 1, 2020[2016];

(qq) 40 C.F.R. 60.340 ~~through~~ 60.344 (Subpart HH), Standards of Performance for Lime Manufacturing Plants, as published July 1, 2020[2016];

(rr) 40 C.F.R. 60.370 ~~through~~ 60.374 (Subpart KK), Standards of Performance for Lead-Acid Battery Manufacturing Plants, as published July 1, 2020[2016];

(ss) 40 C.F.R. 60.380 ~~through~~ 60.386 (Subpart LL), Standards of Performance for Metallic Mineral Processing Plants, as published July 1, 2020[2016];

(tt) 40 C.F.R. 60.390 ~~through~~ 60.398 (Subpart MM), Standards of Performance for Automobile and Light Duty Truck Surface Coating Operations, as published July 1, 2020[2016];

(uu) 40 C.F.R. 60.400 ~~through~~ 60.404 (Subpart NN), Standards of Performance for Phosphate Rock Plants, as published July 1, 2020[2016];

(vv) 40 C.F.R. 60.420 ~~through~~ 60.424 (Subpart PP), Standards of Performance for Ammonium Sulfate Manufacture, as published July 1, 2020[2016];

(ww) 40 C.F.R. 60.430 ~~through~~ 60.435 (Subpart QQ), Standards of Performance for the Graphic Arts Industry: Publication Rotogravure Printing, as published July 1, 2020[2016];

(xx) 40 C.F.R. 60.440 ~~through~~ 60.447 (Subpart RR), Standards of Performance for Pressure Sensitive Tape and Label Surface Coating Operations, as published July 1, 2020[2016];

(yy) 40 C.F.R. 60.450 ~~through~~ 60.456 (Subpart SS), Standards of Performance for Industrial Surface Coating: Large Appliances, as published July 1, 2020[2016];

(zz) 40 C.F.R. 60.460 ~~through~~ 60.466 (Subpart TT), Standards of Performance for Metal Coil Surface Coating, as published July 1, 2020[2016];

(aaa) 40 C.F.R. 60.470 ~~through~~ 60.474 (Subpart UU), Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture, as published July 1, 2020[2016];

(bbb) 40 C.F.R. 60.480 ~~through~~ 60.489 (Subpart VV), Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for Which Construction, Reconstruction, or Modification Commenced After January 5, 1981, and on or Before November 7, 2006, as published July 1, 2020[2016];

(ccc) 40 C.F.R. 60.480a ~~through~~ 60.489a (Subpart VVa), Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for Which Construction, Reconstruction, or Modification Commenced After November 7, 2006, as published July 1, 2020[2016];

(ddd) 40 C.F.R. 60.490 ~~through~~ 60.496 (Subpart WW), Standards of Performance for the Beverage Can Surface Coating Industry, as published July 1, 2020[2016];

(eee) 40 C.F.R. 60.500 ~~through~~ 60.506 (Subpart XX), Standards of Performance for Bulk Gasoline Terminals, as published July 1, 2020[2016];

(fff) 40 C.F.R. 60.540 ~~through~~ 60.548 (Subpart BBB), Standards of Performance for the Rubber Tire Manufacturing Industry, as published July 1, 2020[2016];

(ggg) 40 C.F.R. 60.560 ~~through~~ 60.566 (Subpart DDD), Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry, as published July 1, 2020[2016];

(hhh) 40 C.F.R. 60.580 through[tø] 60.585 (Subpart FFF), Standards of Performance for Flexible Vinyl and Urethane Coating and Printing, as published July 1, 2020[2016];

(iii) 40 C.F.R. 60.590 through[tø] 60.593 (Subpart GGG), Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After January 4, 1983, and On or Before November 7, 2006, as published July 1, 2020[2016];

(jjj) 40 C.F.R. 60.590a through[tø] 60.593a (Subpart GGGa), Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After November 7, 2006, as published July 1, 2020[2016];

(kkk) 40 C.F.R. 60.600 through[tø] 60.604 (Subpart HHH), Standards of Performance for Synthetic Fiber Production Facilities, as published July 1, 2020[2016];

(III) 40 C.F.R. 60.610 through[tø] 60.618 (Subpart III), Standards of Performance for Volatile Organic Compound (VOC) Emissions From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes, as published July 1, 2020[2016];

(mmm) 40 C.F.R. 60.620 through[tø] 60.625 (Subpart JJJ), Standards of Performance for Petroleum Dry Cleaners, as published July 1, 2020[2016];

(nnn) 40 C.F.R. 60.630 through[tø] 60.636 (Subpart KKK), Standards of Performance for Equipment Leaks of VOC From Onshore Natural Gas Processing Plants for Which Construction, Reconstruction, or Modification Commenced After January 20, 1984, and On or Before August 23, 2011, as published July 1, 2020[2016];

(ooo) 40 C.F.R. 60.640 through[tø] 60.648 (Subpart LLL), Standards of Performance for SO₂ Emissions from Onshore Natural Gas Processing for Which Construction, Reconstruction, or Modification Commenced After January 20, 1984, and On or Before August 23, 2011, as published July 1, 2020[2016];

(ppp) 40 C.F.R. 60.660 through[tø] 60.668 (Subpart NNN), Standards of Performance for Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations, as published July 1, 2020[2016];

(qqq) 40 C.F.R. 60.670 through[tø] 60.676, Tables 1 through[tø] 3 (Subpart OOO), Standards of Performance for Nonmetallic Mineral Processing Plants, as published July 1, 2020[2016];

(rrr) 40 C.F.R. 60.680 through[tø] 60.685 (Subpart PPP), Standards of Performance for Wool Fiberglass Insulation Manufacturing Plants, as published July 1, 2020[2016];

(sss) 40 C.F.R. 60.690 through[tø] 60.699 (Subpart QQQ), Standards of Performance for VOC Emissions From Petroleum Refinery Wastewater Systems, as published July 1, 2020[2016];

(ttt) 40 C.F.R. 60.700 through[tø] 60.708 (Subpart RRR), Standards of Performance for Volatile Organic Compound Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes, as published July 1, 2020[2016];

(uuu) 40 C.F.R. 60.710 through[tø] 60.718 (Subpart SSS), Standards of Performance for Magnetic Tape Coating Facilities, as published July 1, 2020[2016];

(vvv) 40 C.F.R. 60.720 through[tø] 60.726 (Subpart TTT), Standards of Performance for Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines, as published July 1, 2020[2016];

(www) 40 C.F.R. 60.730 through[tø] 60.737 (Subpart UUU), Standards of Performance for Calciners and Dryers in Mineral Industries, as published July 1, 2020[2016];

(xxx) 40 C.F.R. 60.740 through[te] 60.748 (Subpart VVV), Standards of Performance for Polymeric Coating of Supporting Substrates Facilities, as published July 1, 2020[2016];

(yyy) 40 C.F.R. 60.750 through[te] 60.759 (Subpart WWW), Standards of Performance for Municipal Solid Waste Landfills, as published July 1, 2020 and at 85 F.R. 64398[2016];

(zzz) 40 C.F.R. 60.760 through[te] 60.769 (Subpart XXX), Standards of Performance for Municipal Solid Waste Landfills that Commenced Construction, Reconstruction, or Modification After July 17, 2014, as published July 1, 2020 and at 85 F.R. 63394[at 81 F.R. 59368];

(aaaa) 40 C.F.R. 60.1000 through[te] 60.1465, Tables 1 through[te] 5 (Subpart AAAA), Standards of Performance for Small Municipal Waste Combustion Units for Which Construction is Commenced After August 30, 1999 or for Which Modification or Reconstruction is Commenced After June 6, 2001, as published July 1, 2020[2016];

(bbbb) 40 C.F.R. 60.2000 through[te] 60.2265, Tables 1 through[te] 8 (Subpart CCCC), Standards of Performance for Commercial and Industrial Solid Waste Incineration Units, as published July 1, 2020 and at 85 F.R. 63394[2016];

(cccc) 40 C.F.R. 60.2880 through[te] 60.2977, Tables 1 through[te] 4 (Subpart EEEE), Standards of Performance for Other Solid Waste Incineration Units for Which Construction is Commenced After December 9, 2004, or for Which Modification or Reconstruction is Commenced on or After June 16, 2006, as published July 1, 2020[2016];

(dddd) 40 C.F.R. 60.4200 through[te] 60.4219, Tables 1 through[te] 8 (Subpart IIII), Standards of Performance for Stationary Compression Ignition Internal Combustion Engines, as published July 1, 2020[2016];

(eeee) 40 C.F.R. 60.4230 through[te] 60.4248, Tables 1 through[te] 4 (Subpart JJJJ), Standards of Performance for Stationary Spark Ignition Internal Combustion Engines, as published July 1, 2020 and at 85 F.R. 63394[2016];

(ffff) 40 C.F.R. 60.4300 through[te] 60.4420, Table 1 (Subpart KKKK), Standards of Performance for Stationary Combustion Turbines, as published July 1, 2020 and at 85 F.R. 63394[2016];

(gggg) 40 C.F.R. 60.4760 through[te] 60.4930, Tables 1 through[te] 5 (Subpart LLLL), Standards of Performance for New Sewage Sludge Incineration Units, as published July 1, 2020[2016];

(hhhh) 40 C.F.R. 60.5360 through[te] 60.5430, Tables 1 through[te] 3 (Subpart OOOO), Standards of Performance for Crude Oil and Natural Gas ~~Facilities[Production, Transmission and Distribution]~~ for Which Construction, Modification or Reconstruction Commenced after August 23, 2011, and On or Before September 18, 2015, as published July 1, 2020 and at 85 F.R. 57018[2016];

(iiii) 40 C.F.R. 60.5360a through[te] 60.5432a, Tables 1 through[te] 3 (Subpart OOOOa), Standards of Performance for Crude Oil and Natural Gas Facilities for Which Construction, Modification or Reconstruction Commenced After September 18, 2015, as published July 1, 2020 and at 85 F.R. 57018 and 85 F.R. 57398[2016]; or

(jjjj) 40 C.F.R. 60.5508 through[te] 60.5580, Tables 1 through[te] 3 (Subpart TTTT), Standards of Performance for Greenhouse Gas Emissions for Electric Generating Units, as published July 1, 2020[2016]; and

(3) The applicable methods, procedures, and reporting requirements codified in 40 C.F.R. Part 60, Appendices A-1 through[A-te] F and I, as published July 1, 2020 and at 85 F.R. 63394[2016].

Section 3. Reporting Requirements. All documentation required by this administrative regulation to be submitted to the U.S. EPA shall also be submitted to the cabinet.

CONTACT PERSON: Matthew Dollar, Environmental Scientist, Division for Air Quality, 300 Sower Boulevard, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 782-6468, fax (502) 564-4245, e-mail matthew.dollar@ky.gov.



COMMONWEALTH OF KENTUCKY
TRANSPORTATION CABINET
transportation.ky.gov

Andy Beshear
GOVERNOR

Jim Gray
SECRETARY

February 23, 2021

Ms. Emily Caudill, Regulations Compiler
Legislative Research Commission
Capitol Annex, Room 029
702 Capitol Avenue
Frankfort, KY 40601



Dear Ms. Caudill:

After discussions with Administrative Regulations Review Subcommittee staff of the issues raised by **601 KAR 01:113**, the Transportation Cabinet proposes the attached suggested amendment to 601 KAR 01:113.

Sincerely,

Jon H. Johnson

Jon H. Johnson
Assistant General Counsel
Office of Legal Services
Transportation Cabinet
200 Mero Street
Frankfort, Kentucky 40622
(502) 564-7650

Subcommittee Substitute

**TRANSPORTATION CABINET
Department of Vehicle Regulation
Division of Motor Carriers
(As Amended at ARRS)**

601 KAR 1:113. Transportation network company.

RELATES TO: KRS 17.500, 61.878(1)(c)1., 61.931(6), 186.050, 189.290, 189A.010, 281.010, 281.600, 281.630, 281.6301, 281.631, 281.640, 281.650, 281.655, 281.656, 281.990, 304.3-070, 304.10-010-304.10-070, 304.20-020, 304.39-020(2), 304.39-040, 304.39-320, Chapter 365, 532.060
STATUTORY AUTHORITY: KRS 281.600, 281.630, 281.655

NECESSITY, FUNCTION, AND CONFORMITY: KRS 281.600 authorizes the Department of Vehicle Regulation to promulgate administrative regulations to regulate and establish requirements for the safe operation of motor carriers. KRS 281.630 authorizes the department to establish requirements for a transportation network company to apply for authority to operate in Kentucky. KRS 281.655 requires the department to establish standards for pre-trip acceptance policies and prearranged ride liability policies for transportation network companies. This administrative regulation establishes the standards and application requirements for a transportation network company to operate in Kentucky.

Section 1. Definitions. (1) "Basic reparation benefits" is defined by KRS 304.39-020(2).

(2) "Certificate" is defined by KRS 281.010(8).

(3) "Driver" is defined by KRS 281.010(20).

(4) "Mobile application" is defined by KRS 281.010(30).

(5) "Motor carrier" is defined by KRS 281.010(31).

(6) "Motor carrier vehicle" is defined by KRS 281.010(32).

(7) "Operating authority" means the authority granted to operate as a TNC in the commonwealth through the application process with the department.

(8) "Passenger" is defined by KRS 281.010(36).

(9) "Personal information" is defined by KRS 61.931(6).

(10) "Prearranged ride" is defined by KRS 281.010~~(40)~~~~[(39)]~~.

(11) "Pre-trip acceptance liability policy" is defined by KRS 281.010~~(41)~~~~[(40)]~~.

(12) "Regular seat" is defined by KRS 281.010~~(45)~~~~[(44)]~~.

(13) "Street hail" is defined by KRS 281.010~~(46)~~~~[(45)]~~.

(14) "Transportation network company" or "TNC" is defined by KRS 281.010~~(52)~~~~[(51)]~~.

(15) "Transportation network company driver" or "TNC driver" is defined by KRS 281.010~~(54)~~~~[(53)]~~.

(16) "Transportation network company service" or "TNC service" is defined by KRS 281.010~~(55)~~~~[(54)]~~.

(17) "Transportation network company vehicle" or "TNC vehicle" is defined by KRS 281.010~~(56)~~~~[(55)]~~.

(18) "Underinsured vehicle coverage" is defined by KRS 304.39-320(1).

(19) "Uninsured vehicle coverage" is defined by KRS 304.20-020(2).

Section 2. Application and Renewal. (1) A TNC shall register as a business organization with the Kentucky Secretary of State.

(2) The department may waive the filing of the certificate of assumed name if a TNC:

(a) Demonstrates compliance with the relevant provisions of KRS Chapter 365;

(b) Certifies in writing to the department that Kentucky law either prohibits or does not require the filing; and

(c) States the reasons in writing why the filing is not required.

(3) ~~[In order]~~ To apply for a certificate to operate, a TNC shall submit directly to the Division of Motor Carriers:

(a) A completed Transportation Network Company Authority Application, TC 95-627;

(b) An application fee of \$250 pursuant to KRS 281.630(3)(b); and

(c) A vehicle qualification fee of thirty (30) dollars per vehicle prorated for the month the vehicle is qualified pursuant to subsections (3) and (8) of KRS 281.631~~[(3)(a)1. and (8)]~~.

(4) A TNC with fifty-one (51) or more vehicles may qualify vehicles to operate by providing to the department through an online data access point:

(a) A completed Transportation Network Company Authority Application, TC 95-627;

(b) An application fee of \$250 pursuant to KRS 281.630(3)(b); and

(c) A calendar year bulk qualification fee pursuant to the following schedule:

1. \$3,000 for fifty-one (51) to 100 vehicles;

2. \$4,500 for 101 to 150 vehicles;

3. \$6,000 for 151 to 200 vehicles;

4. \$7,500 for 201 to 250 vehicles;

5. \$9,000 for 251 to 300 vehicles;

6. \$10,500 for 301 to 350 vehicles;

7. \$12,000 for 351 to 400 vehicles;

8. \$15,000 for 401 to 500 vehicles; and

9. \$22,500 for 501 or more vehicles.

(5) A TNC shall annually submit the following to the Division of Motor Carriers to renew a certificate:

(a) A completed Motor Carrier Passenger Certificate, Vehicle Qualification and Renewal Application, TC 95-605;

(b) A certificate renewal fee of \$250 pursuant to KRS 281.630(4)(d); and

(c) A vehicle qualification fee of thirty (30) dollars per vehicle prorated for the month the vehicle is qualified pursuant to subsections (3) and (8) of KRS 281.631~~[(3)(a)1. and (8)]~~.

(6) If a TNC elects to use the bulk vehicle registration payment option in the TNC's initial or renewal TNC application, the TNC shall not be required to submit additional vehicle qualification information and fees to the Division of Motor Carriers in connection with vehicles that are added during the duration of the period for which the bulk payment was made.

(7) A TNC shall pay a renewal bulk fee by December 15 of each calendar year.

(8) A TNC vehicle shall be added to the TNC's current list by submitting the following to the Division of Motor Carriers:

(a) A completed Motor Carrier Passenger Certificate, Vehicle Qualification and Renewal Application, TC 95-605; and

(b) A vehicle qualification fee of thirty (30) dollars per vehicle prorated for the month the vehicle is qualified pursuant to subsections (3) and (8) of KRS 281.631 ~~[(3)(a)1. and (8)]~~.

(9) An application shall be submitted electronically, by mail, or by hand delivery.

(10) Operating authority obtained pursuant to this section shall not be transferable.

(11)(a) The TNC shall submit the following documents if submitting an application for certificate, annual renewal, or adding a driver during the year:

1. An affidavit from the corporate officer in charge of Kentucky operations certifying that the national criminal background check of TNC drivers established in KRS 281.630 and 281.6301 shall be completed prior to allowing the TNC driver to accept rides through the TNC mobile application; and

2. One (1) copy of the current contractual agreement between the TNC and TNC drivers.

(b) A deficient application shall be returned to the applicant with no formal action taken by the department.

Section 3. Demonstration of Financial Responsibility and Insurance.

(1) A TNC shall maintain primary automobile insurance that:

(a) Recognizes that a driver is a TNC driver or using a vehicle to transport passengers for compensation; and

(b) Provides insurance coverage for a TNC driver who is:

1. Logged on to the TNCs mobile application; or

2. Engaged in a prearranged ride.

(2) The following pre-trip acceptance liability policy insurance coverage requirements shall apply if a TNC driver is logged on to the TNC's mobile application and available to receive transportation requests but not engaged in a prearranged ride:

(a) Primary automobile liability insurance in the minimum amounts required by KRS 281.655(12);

(b) Basic reparation benefits in accordance with KRS 304.39-020;

(c) Uninsured vehicle coverage in accordance with KRS 304.20-020; and

(d) Underinsured vehicle coverage in accordance with KRS 304.39-320.

(3) The pre-trip acceptance liability policy insurance coverage requirements of KRS 281.655(12) shall be satisfied by one (1) of the following:

(a) Automobile insurance maintained by the TNC;

(b) Automobile insurance maintained by the TNC driver; or

(c) A combination of paragraphs (a) and (b) of this subsection.

(4) The following automobile insurance requirements shall apply while a TNC driver is engaged in a prearranged ride:

(a) Primary automobile liability insurance in the minimum amounts required by KRS 281.655(4);

(b) Basic reparation benefits in accordance with KRS 304.39-020;

(c) Uninsured vehicle coverage in accordance with KRS 304.20-020; and

(d) Underinsured vehicle coverage in accordance with KRS 304.39-320.

(5) The prearranged ride liability insurance coverage requirements of KRS 281.655(4) shall be satisfied by one (1) of the following:

- (a) Automobile insurance maintained by the TNC;
- (b) Automobile insurance maintained by the TNC driver; or
- (c) A combination of paragraphs (a) and (b) of this subsection.
- (6) If the insurance maintained by a TNC driver has lapsed or does not provide the required coverage, the TNC shall provide the required insurance coverage beginning with the first dollar of a claim. The TNC shall have the duty to defend a claim for damages.
- (7) Coverage under an automobile insurance policy maintained by the TNC shall not be dependent on a personal automobile insurer or policy first denying a claim.
- (8) The insurance required by this section shall be placed with an insurer licensed pursuant to KRS 304.3-070, or with a surplus lines insurer eligible under KRS 304.10-010 through 304.10-070.
- (9) A TNC driver shall carry proof of insurance coverage satisfying KRS Chapter 304, KRS 281.655, and this administrative regulation during his or her use of a vehicle in connection with a TNC's mobile application. ~~If [In the event of]~~ an accident occurs, and upon request, a TNC driver shall provide this insurance coverage information directly to interested parties, automobile insurers, and investigating police officers.
- (10) A TNC driver shall disclose directly to interested parties, automobile insurers, the department, and investigating police officers, whether or not he or she was logged on to the TNC's mobile application or on a prearranged ride at the time of an accident.

Section 4. Insurance Exclusions. (1) A Kentucky automobile insurer may exclude the following coverage under a TNC driver's insurance policy for loss or injury that occurs while a TNC driver is logged on to a TNC's mobile application or while a TNC driver provides a prearranged ride:

- (a) Liability coverage for bodily injury and property damage;
- (b) Personal injury protection coverage as established in KRS Chapter 304;
- (c) Uninsured and underinsured motorist coverage;
- (d) Medical payments coverage;
- (e) Comprehensive physical damage coverage; and
- (f) Collision physical damage coverage.
- (2) Nothing in this administrative regulation shall require a personal automobile insurer to provide coverage while a driver is:
 - (a) Logged on to the TNC mobile application;
 - (b) Engaged in a prearranged ride; or
 - (c) Using a vehicle to transport passengers for compensation.
- (3) Nothing in this administrative regulation shall preclude an insurer from providing coverage for the TNC driver's vehicle.
- (4) An automobile insurer whose policy excludes coverage for a TNC vehicle or TNC driver shall have no duty to defend or indemnify a claim for personal or property damages.
- (5) An automobile insurer that defends or indemnifies a claim against a TNC driver that is excluded under the terms of its policy shall have a right of contribution against other insurers that provide automobile insurance to the same driver.
- (6) In a claims coverage investigation, the TNC and an insurer potentially providing coverage shall cooperate to facilitate the exchange of relevant information with directly involved parties.
- (7) Information relevant to a claims coverage situation shall include:
 - (a) The name of the insurer or potential insurer of the TNC driver;

(b) The precise times the TNC driver logged off and on the TNC mobile application in the twelve (12) hour period immediately before and after the incident; and

(c) A complete description of the insurance coverage including the exclusions and limits.

(8) The Transportation Cabinet shall issue an RFQ to device manufactures ~~[in-order]~~ to certify manufacturers eligible to provide ignition interlock services and commodities required for the implementation and maintenance of the state's ignition interlock program.

Section 5. Vehicles. (1) A vehicle used by a driver for TNC services shall be qualified by the department to operate by submitting a completed Transportation Network Company Authority Application, TC 95-627 and submitting the fees required in Section 2 of this administrative regulation.

(2) The TNC shall ensure that the vehicles used by TNC drivers to transport passengers shall be subject to an annual inspection by a mechanic.

(3) The annual inspection shall be completed on the vehicle inspection form provided in Transportation Network Company Authority Application, TC 95-627, or a vehicle inspection form provided by the TNC within thirty (30) days of the qualification of a vehicle for TNC services.

(4) A TNC shall collect and maintain information on the vehicles being used to provide service by TNC drivers including:

(a) The VIN and license plate number; and

(b) Records of official vehicle inspections by the automotive technician.

(5) Records of vehicle inspection and VIN and license plate numbers shall be kept by the TNC for a minimum of three (3) years from the date of inspection, and the TNC shall make the records available to the department or its representative on request. The information and records may be submitted as personal or proprietary information pursuant to KRS 61.878(1)(c)1 and 61.931(6).

(6) A vehicle used to provide TNC services shall be readily identifiable by the following:

(a) A company specific emblem or decal affixed to the front windshield on the passenger side of the vehicle provided by the TNC; and

(b) An electronic copy of the current TNC certificate.

(7) A driver who is no longer providing TNC service shall destroy or return the decal or emblem to the TNC.

(8) A TNC shall ensure that the vehicles used by drivers to provide TNC services shall:

(a) Have at least four (4) doors; and

(b) Be designed to carry no more than eight (8) persons including the driver.

Section 6. TNC Drivers. (1) A TNC shall require each driver to undergo a national criminal background check before providing TNC services pursuant to KRS 281.6301.

(2) The TNC shall certify the criminal background check during the application process established in Section 2 of this administrative regulation. The national criminal background check shall be either:

(a) A comprehensive background check using fingerprint analysis; or

(b) An individual analysis using a social security number.

(3) The analysis required in subsection (1) of this section shall be conducted by a business or firm engaged in determining criminal background history.

(4) A TNC shall also require that each TNC driver:

(a) Is at least twenty-one (21) years old;

(b) Is the owner or lessee of the TNC vehicle or has a statement from the registered owner authorizing the use of the vehicle for TNC services pursuant to KRS 281.631;

(c) Is listed as an insured of the TNC vehicle;

(d) Has a valid state-issued driver's license and vehicle registration;

(e) Has personal vehicle insurance coverage as established in Section 3 of this administrative regulation;

(f) Has completed ~~a[an annual]~~ driver safety training course approved by the department such that the certification or proof of completing the safety training course shall be valid for a period of five (5) years from the date from which the driver completed the training; and

(g) ~~[Provides a written or electronic affirmation that he or she is fit and able to operate a motor vehicle to provide TNC services; and~~

~~(h)]~~ Is in compliance with applicable state law and local ordinances related to the operation of a motor vehicle.

(5) A current list of drivers shall be kept on file with the TNC and made available for inspection by the department on request. A TNC driver's electronic file shall include the following:

(a) A current driving history record to be updated annually;

(b) The current address of the driver;

(c) A copy of a valid state-issued driver's license and the operator's license number;

(d) Proof of his or her personal vehicle insurance coverage;

(e) Proof of personal vehicle registration;

(f) Proof of the written or electronic affirmation that a TNC driver is fit and able to operate a motor vehicle to provide TNC services;

(g) Verification of the criminal background check required in subsection (1) of this section;

(h) Records indicating if a driver has refused to accept a prearranged ride and the reason for doing so;

(i) Records of complaints against a driver; and

(j) A copy of the most current vehicle inspection.

Section 7. Passenger Service. (1) A TNC shall adopt a policy of non-discrimination based on the following:

(a) Destination;

(b) Race or color;

(c) National origin;

(d) Religious belief or affiliation;

(e) Sex and sexual orientation or identity;

(f) Disability;

(g) Age; and

(h) The presence of a passenger's service animal.

(2) A TNC shall notify TNC drivers of the adopted policy of non-discrimination established in subsection (1) of this section.

(3) After acceptance, a TNC driver may refuse to transport a passenger who is acting in an unlawful, disorderly, or endangering manner but shall comply with the non-discriminatory policy in subsection (1) of this section. A driver may also refuse to transport a passenger with a service animal if the driver has a documented medical allergy.

(4) A TNC driver shall not transport a passenger under the age of fourteen (14) unless accompanied by a person over the age of eighteen (18).

(5) A TNC shall establish policies regarding TNC driver behavior that shall include the following prohibitions:

(a) Being under the influence of alcohol or another substance or combination of substances that impair the driving ability while providing TNC services;

(b) Accepting a street hail by a potential rider;

(c) Directly soliciting a passenger or responding to a direct solicitation; and

(d) Providing services for cash.

(6) A driver shall immediately report the following to the driver's affiliated TNC:

(a) A refusal to transport a passenger and the reasons for the refusal within forty-eight (48) hours after the refusal if the refusal occurred after the ride had been accepted by the driver;

(b) Information regarding a driving citation, incident, or accident within twenty-four (24) hours after the event; or

(c) Information regarding a conviction within twenty-four (24) hours.

(7) A TNC shall provide the following information to the public on its Web site and mobile device application software:

(a) A schedule of its rates or the method used to calculate rates and peak pricing; and

(b) Information indicating a zero tolerance policy related to drug and alcohol usage by its drivers while performing TNC services and a passenger support telephone number or email address where a suspected violation may be immediately reported.

(8) A TNC shall provide the following information to a person requesting a ride through its mobile application:

(a) The expected cost of the trip if requested by a potential passenger;

(b) The first name and a photograph of the TNC driver accepting the ride request; and

(c) A photograph or description, including license plate number, of the vehicle that will be used for the ride.

(9) At the completion of the prearranged ride, a TNC shall electronically provide the passenger with a receipt showing:

(a) The point of origin and destination of the ride;

(b) The duration and distance of the ride;

(c) The cost of the ride broken down into base fare and additional charges; and

(d) The driver's first name.

Section 8. Terms of Service. (1) The TNC shall not require a hold harmless or indemnification clause in the terms of service for a TNC driver or passenger that may be used to evade the insurance requirements of this administrative regulation and KRS Chapter 281.

(2) A TNC shall not disclose to a third party the personally identifiable information of a user of the TNC's mobile application unless:

(a) The TNC obtains the user's consent to disclose personally identifiable information;

(b) The disclosure is required to comply with a legal obligation; or

(c) The disclosure is required to protect or defend the terms of use of the service or to investigate violations of the terms of use.

(3) A TNC may disclose a passenger's name and telephone number to the TNC driver ~~[in-order]~~ to facilitate correct identification of the passenger by the driver or to facilitate communication between the passenger and the driver.

Section 9. Penalties. (1) A TNC that operates in violation of the requirements of this administrative regulation shall be fined \$200 pursuant to KRS 281.990(1).

(2) A TNC that operates in violation of the terms of its certificate or permit or operates without a valid permit shall be fined \$500 per occurrence pursuant to KRS 281.990(2).

(3) A TNC that fails to produce requested records and information pursuant to KRS 281.820 within forty-eight (48) hours of the request by the department shall be fined \$200.

(4) A TNC shall be responsible for an affiliated TNC driver's failure to comply with this administrative regulation if the driver's violation has been previously reported to the TNC in writing and the TNC has failed to take action within ten (10) days of the report.

Section 10. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Transportation Network Company Authority Application", TC 95-627, ~~October, 2020~~ **[November, 2014]**; and

(b) "Motor Carrier Passenger Certificate, Vehicle Qualification and Renewal Application", TC 95-605, ~~October, 2020~~ **[May, 2015]**.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Vehicle Regulation, 200 Mero Street, Frankfort, Kentucky 40622, Monday through Friday, 8:00 a.m. to 4:30 p.m. This material may also be obtained by accessing the department's Web site at <http://transportation.ky.gov/>.

CONTACT PERSON: Jon Johnson, Staff Attorney Manager/Assistant General Counsel,
Transportation Cabinet, Office of Legal Services, 200 Mero Street, Frankfort, Kentucky
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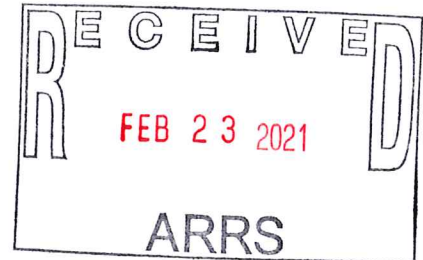
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TRANSPORTATION CABINET
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Andy Beshear
GOVERNOR

Jim Gray
SECRETARY

February 23, 2021

Ms. Emily Caudill, Regulations Compiler
Legislative Research Commission
Capitol Annex, Room 029
702 Capitol Avenue
Frankfort, KY 40601



Dear Ms. Caudill:

After discussions with Administrative Regulations Review Subcommittee staff of the issues raised by **601 KAR 023:030**, the Transportation Cabinet proposes the attached suggested amendment to 601 KAR 023:030.

Sincerely,

Jon H. Johnson

Jon H. Johnson
Assistant General Counsel
Office of Legal Services
Transportation Cabinet
200 Mero Street
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Subcommittee Substitute
TRANSPORTATION CABINET
Department of Vehicle Regulation
Division of Motor Licensing
(As Amended at ARRS)

601 KAR 23:030. Motor vehicle speed title process exceptions.

RELATES TO: KRS ~~[186.200;]~~ 186.115, 186.200, 186A.070, 186A.120, ~~[KRS]~~ 186A.130, 186A.165, 186A.170, 186A.520

STATUTORY AUTHORITY: KRS 186A.170(1)(b)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 186A.170(1)(b) authorizes the Transportation Cabinet, Department of Vehicle Regulation, to promulgate administrative regulations providing exceptions to the speed title procedure. This administrative regulation establishes the procedures necessary to apply to obtain a certificate of title by means of an accelerated process and establishes the process for the cabinet to issue a motor vehicle certificate of title within forty-eight (48) hours of receipt of electronic speed title application from a county clerk.

Section 1. Definitions. (1) "Kentucky Certificate of Title" is defined by 103 KAR 44:120.

(2) "Rebuilt title" means a certificate of title issued pursuant to 601 KAR 9:200 for a specific motor vehicle that had been damaged and subsequently restored to an operable condition by replacing two (2) or more major component parts.

(3) "Resident" is defined by KRS 186.010(12).

(4) "Salvage title" is defined by KRS 186A.520(1).

(5) "Speed title" or "Speed certificate of title" means an expedited issuance of a certificate of title by the Transportation Cabinet as established in KRS 186A.170.

Section 2. Application for Kentucky Certificate of Title and Registration, TC 96-182.

(1) A completed Application for Kentucky Certificate of Title and Registration shall be submitted to the Division of Motor Licensing if a vehicle changes ownership or if the owner is a new Kentucky resident.

(2) A copy of the vehicle owner's Kentucky driver's license and ownership document or documents shall be attached to the Application for Kentucky Certificate of Title and Registration.

Section 3. Forty-eight (48) Hour Exceptions. (1) An Application for Kentucky Certificate of Title and Registration for a speed certificate of title shall, pursuant to this administrative regulation and KRS 186A.170(1)(b), be exempt from the forty-eight (48) hour requirement established in KRS 186A.170(1) if the Application for Kentucky Certificate of Title and Registration:

- (a) Is electronically received by the cabinet from the county clerk on a Friday or Saturday;
- (b) Does not include all of the required supporting materials as established in KRS 186.020;
- (c) Includes one (1) or more supporting documents that is fraudulent, incomplete, or incorrect;
- (d) Is for a classic motor vehicle project as established in 601 KAR 23:010; or
- (e) Is not timely delivered to the cabinet due to delays from the postal delivery services.

Section 4. Motor Vehicles Ineligible for a Speed Title. (1) The following motor vehicles shall not be eligible for a speed title. A motor vehicle:

- (a) Assembled from parts of junked, un-rebuildable, or other similar classification that disqualifies the vehicle from being titled for highway use pursuant to KRS 186.115;
- (b) Subject to the classic motor vehicle project as established in 601 KAR 23:010;
- (c) In a condition that requires the owner to obtain a rebuilt title as established in 601 KAR 9:200; or
- (d) In a condition that requires the owner to obtain a salvage title as established in KRS 186A.520.

Section 5. Incorporation by Reference. (1) ~~[The following material is incorporated by reference:~~

~~(a)]~~ "Application for Kentucky Certificate of Title and Registration," TC 96-182, ~~May~~ **[March]** 2020 **is incorporated by reference.**

(2)(a) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Transportation Cabinet Building, Department of Vehicle Regulation, Division of Motor Licensing, 200 Mero Street, Frankfort, Kentucky 40622, Monday through Friday, 8:00 a.m. through 4:30 p.m.

(b) This material is also available on the cabinet's Web site at <http://drive.ky.gov>.

CONTACT PERSON: Jon Johnson, Staff Attorney Manager/Assistant General Counsel, Transportation Cabinet, Office of Legal Services, 200 Mero Street, Frankfort, Kentucky 40622, phone (502) 564-7650, fax (502) 564-5238, email jon.johnson@ky.gov.

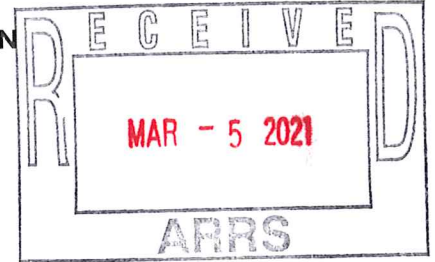
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February 19, 2021

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort, KY 40601

Re: **702 KAR 5:080**. Bus drivers' qualification, responsibilities and training.

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 702 KAR 5:080, the Kentucky Board of Education proposes the attached amendment to 702 KAR 5:080.

Sincerely,

A handwritten signature in black ink, appearing to read "Todd G. Allen".

Todd G. Allen
General Counsel

attachment

Staff-suggested Amendment

**Final Version 2/19/2021 8:57 a.m.
Kentucky Board of Education
Department of Education**

702 KAR 5:080. Bus drivers' qualifications, responsibilities, and training.

Pages 6 and 7

Section 8(1)

Lines 23 and 1

After "permission", insert the following:

, which has been signed by the school principal or a designee, granting the student permission

After "bus trip", delete the following:

that has been signed by the school principal or a designee

Page 8

Section 12(2)

Line 11

After "from the bus", insert "may".

Delete "shall".

Page 8

Section 12(3)

Line 13

Before "(b)", insert "(3)".

Delete "(b)".

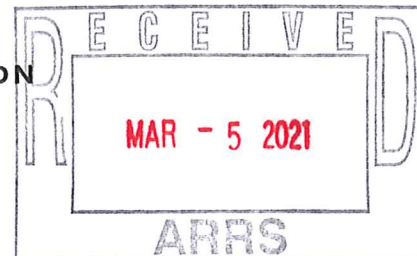
Andy Beshear
Governor



Lt. Gov. Jacqueline Coleman
Secretary
Education and Workforce
Development Cabinet

Jason E. Glass, Ed.D.
Commissioner and Chief Learner

KENTUCKY DEPARTMENT OF EDUCATION
300 Sower Boulevard • Frankfort, Kentucky 40601
Phone: (502) 564-3141 • www.education.ky.gov



February 19, 2021

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort, KY 40601

Re: **704 KAR 8:110** Kentucky Academic Standards for World Language.

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 704 KAR 8:110, the Kentucky Board of Education proposes the attached amendment to 704 KAR 8:110.

Sincerely,

A handwritten signature in black ink that reads "Todd G. Allen".

Todd G. Allen
General Counsel

attachment

Staff-suggested Amendment

**Final Version 2/19/2021 8:59 a.m.
EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Kentucky Board of Education
Kentucky Department of Education**

704 KAR 8:110. Kentucky Academic Standards for World Language.

Page 1

STATUTORY AUTHORITY

Line 7

After "158.6453(18)", insert "160.290".



KENTUCKY LABOR CABINET
Department of Workplace Standards

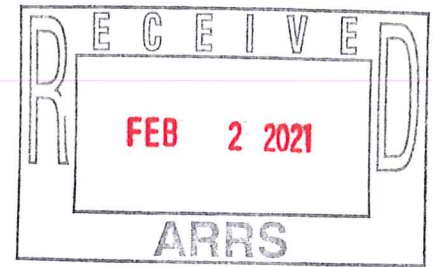
Mayo-Underwood Building
500 Mero Street, 3rd Floor
Frankfort, KY 40601
Telephone: (502) 564-3070
Fax: (502) 696-1984

Andy Beshear
Governor

Jacqueline Coleman
Lieutenant Governor

Larry L. Roberts
Secretary

Kimberlee C. Perry
Commissioner



*For March 2021
ARRS agenda*

February 2, 2021

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

Re: 803 KAR 2:010, Board procedures.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 803 KAR 2:010, on behalf of the Occupational Safety and Health Standards Board, I propose the attached amendments to 803 KAR 2:010.

Sincerely,

Robin Maples
OSH Standards Specialist
Kentucky Labor Cabinet
500 Mero Street, 3rd Floor
Frankfort, KY 40601

Staff-suggested Amendment

Final Version 1/29/2021 12:57 p.m.

LABOR CABINET

Department of Workplace Standards

Division of Occupational Safety and Health Compliance

Division of Occupational Safety and Health Education and Training

803 KAR 2:010. Board procedures.

Page 1

Section 1(1)

Line 21

After "is defined", insert "by".

Delete "in".

Page 2

Section 1(3)

Lines 6 through 16

After "the chairperson.", return and delete the following:

(4) "Employee" is defined in KRS 338.015(2).

(5) "Employer" is defined by KRS 338.015(1).

Page 5

Section 6(4)

Lines 9 and 11

After "may petition", insert " 1".

After "in writing", insert " 1".

Page 5

Section 6(5)

Lines 13 and 15

After "submission pursuant to", insert "subsection (4) of".

After "the board and", insert "it".

Page 6

Section 7(4)

Line 5

After "successor is elected.", insert "If".

Delete "In the event".

Page 6

Section 7(5)

Lines 10, 11, 12, 13, and 14

After "testimony or evidence", insert "if".

Delete "provided, that".

After "the chairperson directs,", insert "the".

Delete "such".

After "person", insert "files".

Delete "shall file".

After "shall set forth", insert "the".

Page 6

Section 7(6)

Line 20

After "the hearing. If", insert "the".

Delete "such".

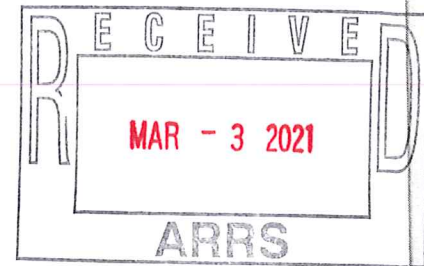


KENTUCKY LABOR CABINET
Department of Workers' Claims

Mayo-Underwood Building
500 Mero Street, 3rd Floor
Frankfort, KY 40601
Telephone: (502) 564-5550

Andy Beshear
Governor

Jacqueline Coleman
Lieutenant Governor



Larry L. Roberts
Secretary

Robert L. Swisher
Commissioner

March 2, 2021

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

Re: 803 KAR 25:300

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 803 KAR 25:300, the Department of Workers' Claims' proposes the attached amendments to 803 KAR 25:300.

Sincerely,

B. Dale Hamblin, Jr.
Assistant General Counsel
Department of Workers' Claims
Mayo-Underwood Building, 3rd Floor
500 Mero Street
Frankfort, KY 40601

LABOR CABINET
Department of Workers' Claims
(As Amended at ARRS)

803 KAR 25:300. Mediation program.

RELATES TO: KRS Chapter 342

STATUTORY AUTHORITY: KRS 342.276

NECESSITY, FUNCTION, AND CONFORMITY: KRS 342.276(2) ~~requires [provides that]~~ the Commissioner of the Department of Workers' Claims ~~to [shall]~~ promulgate administrative regulations necessary to establish and implement a mediation program, which shall prescribe the qualifications and duties of mediators; a process for the designation of mediators; procedures for the conduct of mediation proceedings; and the issues which shall be subject to mediation. This administrative regulation establishes a mediation program for mediation of disputes as to the entitlement to compensation under KRS Chapter 342.

Section 1. Definitions. (1) "Administrative law judge" or "ALJ" is defined ~~by [in]~~ 803 KAR 25:010 Section 1(1).

(2) "Calendar day" means all days in a month, including Saturday, Sunday, and any day which is a legal holiday.

(3) "Mediation" ~~[as used in this regulation]~~ means a process where a third party facilitates discussion among the parties in an effort to resolve disputes regarding entitlement to the compensation provided in KRS Chapter 342.

Section 2. Qualifications and Duties of Mediators. (1) A mediator shall be an administrative law judge.

(2) A mediator shall not conduct the mediation of a claim, or any of the issues involving a claim, presently assigned to him or her as an administrative law judge.

(3) The mediator shall:

- (a) Explain the mediation process to the parties at the beginning of the session;
- (b) Conduct the mediation in a fair and unbiased manner; and
- (c) Maintain the confidentiality of the mediation.

Section 3. Process for Designation of Mediators. The chief administrative law judge shall designate one **(1)** or more administrative law judges to serve as a mediator on a rotating basis consistent with this **administrative** regulation.

Section 4. Procedures for Conduct of Mediation Proceedings.

(1) At any time after the claim has been initiated with the Department of Workers' Claims, any party may file a motion with the administrative law judge to have the claim, or any part of the claim, referred to mediation under the program outlined in this **administrative** regulation. The motion shall identify the issues to be mediated.

(2) An opposing party shall have seven (7) calendar days to file a response to the motion seeking mediation.

(3) The administrative law judge shall either grant or deny the motion within ten (10) calendar days of the filing of the motion to refer to mediation.

(4) The parties may file a joint motion to refer to mediation. The administrative law judge shall order that the claim or parts of the claim be referred to mediation within seven (7) calendar days of the filing of the joint motion.

(5) The administrative law judge may refer a claim or part of a claim to mediation **[sua-sponte]** at any time after being assigned the claim.

(6) Upon the referral, the administrative law judge or the mediator shall confer with the parties for the purpose of scheduling the mediation. The mediator shall issue a mediation order within seven (7) calendar days of the referral which shall include:

(a) The date, time, allotted time, location of the mediation, and whether the mediation shall be conducted in person, by telephone, or by video conferencing technology;

(b) The required attendees of the mediation; and

(c) The issue(s) to be mediated.

(7) Except by agreement of the parties or by order of the mediator, all counsel of record and all parties shall attend the mediation.

(a) An insured party shall be deemed to have appeared by the physical presence of a representative of the insurance carrier, other than defense counsel, with full settlement authority.

(b) A public entity shall be deemed to have appeared by the physical presence of a representative with full authority to negotiate on behalf of the entity and to recommend settlement to the appropriate decision-making body of the entity.

(c) An entity other than a public entity or an insurance carrier for an insured party shall be deemed to appear by the physical presence of a representative, other than the party's counsel of record, who has full authority to settle without further consultation or approval.

(d) The requirement to physically attend the mediation may be modified to telephonic attendance or attendance by video conference technology by stipulation of the parties or by order of the mediator.

(8) Parties entering into mediation shall be prepared to mediate the disputed issues listed in the mediation order and shall mediate all issues listed in good faith.

(9) Mediation shall be confidential and considered as settlement negotiations for purposes of KRE 408.

(10) The mediator shall conduct the mediation in accordance with Section 2(3) of this **administrative** regulation.

(11) If the parties are able to reach a settlement of all disputed issues, the mediator shall issue a "Notice of Settlement at Mediation" within seven (7) calendar days after the mediation stating that all claims have been resolved. The "Notice of Settlement at Mediation" shall be filed with the Department of Workers' Claims and served on all parties.

(12) If the parties are unable to reach a settlement of any disputed issues, the mediator shall issue a written "Notice of No Settlement at Mediation" within seven (7) calendar days after the mediation stating that no disputes have been resolved. The "Notice of No Settlement at Mediation" shall be filed with the Department of Workers' Claims and served on all parties.

(13) If the parties are able to reach a partial settlement of the disputed issues, the mediator shall issue a written "Notice of Partial Settlement at Mediation" setting forth all the resolved issues and unresolved issues within seven (7) calendar days after the mediation. The "Notice of Partial

Settlement at Mediation" shall be filed with the Department of Workers' Claims and served on all parties.

Section 5. Issues Subject to Mediation.

(1) All issues arising from disputes as to the entitlement to benefits under KRS Chapter 342 shall be subject to mediation under this **administrative** regulation if so ordered by an administrative law judge.

(2) Nothing in this **administrative** regulation shall prevent the parties from using a private mediator at their own cost to resolve disputes as to the entitlement to benefits under KRS Chapter 342.

CONTACT PERSON: B. Dale Hamblin, Jr., Assistant General Counsel, Department of Workers' Claims, Mayo-Underwood Building, 3rd Floor, 500 Mero Street, Frankfort, Kentucky 40601, phone (502) 782-4404, fax (502) 564-0681, email dale.hamblin@ky.gov.



PUBLIC PROTECTION CABINET

Department of Insurance

P.O. Box 517
Frankfort, Kentucky 40602-0517

1-800-595-6053

<http://insurance.ky.gov>

February 22nd, 2021

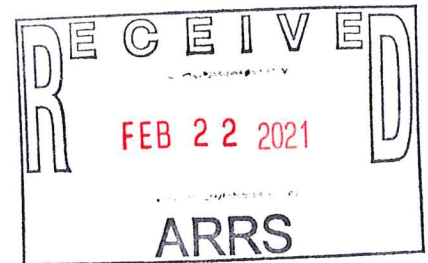
Andy Beshear
Governor

Ray A. Perry
Deputy Secretary

Kerry B. Harvey
Secretary

Sharon P. Clark
Commissioner

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601



Re: **806 KAR 09:360. Pharmacy Benefit Manager license.**

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by **806 KAR 09:360**, the Department of Insurance proposes the attached amendment to **806 KAR 09:360**.

Sincerely,

DJ Wasson

DJ Wasson, Deputy Commissioner
Department of Insurance
Mayo-Underwood Building, 500 Mero St.
Frankfort, KY 40601

Final 2-2-2021

SUGGESTED SUBSTITUTE

PUBLIC PROTECTION CABINET Department of Insurance Agent Licensing Division

806 KAR 9:360. Pharmacy Benefit Manager License.

RELATES TO: KRS 14A.4-010, 304.1-050, 304.2-310, 304.9-020, 304.9-053, 304.9-054, 304.9-055, 304.9-133, 304.10-030, 304.10-040, 304.17A-162, 304.17A-163, 304.17A-165, 304.17A-440, 304.17A-535, 304.17A-607, 304.17A-617-304.17A-633, 45 C.F.R. 156.122

STATUTORY AUTHORITY: KRS 304.2-110, 304.9-053(2), 304.9-054(6)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110 authorizes the Commissioner of Insurance to promulgate reasonable administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 304.9-053(2) requires a pharmacy benefit manager seeking a license to apply to the commissioner in writing on a form provided by the department. KRS 304.9-054(6) requires the department to promulgate administrative regulations to implement and enforce the provisions of KRS 304.9-053, 304.9-054, 304.9-055, and 304.17A-162. This administrative regulation establishes requirements for the licensure of pharmacy benefit managers.

Section 1. Definitions. (1) "Admitted insurer" is defined by KRS 304.10-030(1).

(2) "Commissioner" is defined by KRS 304.1-050(1).

(3) "Department" is defined by KRS 304.1-050(2).

(4) ~~["Maximum allowable cost" is defined by KRS 304.17A-161(3).~~

~~(5)]~~ "Nonadmitted insurer" is defined by KRS 304.10-030(8).

~~(5) [(6)]~~ "Pharmacy benefit manager" is defined by KRS 304.9-020(15).

Section 2. Initial License and Renewal. (1) An applicant for a pharmacy benefit manager license or renewal license from the commissioner shall submit the following to the department in the format as outlined in the instructions[instruction] on the Pharmacy Benefit Manager License Application ~~[hard copy format]~~ [to the department]:

(a) Form PBM, The Pharmacy Benefit Manager License Application;

(b) The fee set forth in KRS 304.9-053(3) and the penalty fee, if applicable, set forth in KRS 304.9-053(5);

(c) The following evidence of financial responsibility:

1. A certificate of insurance from either an admitted insurer or a nonadmitted insurer, in accordance with KRS 304.10-040, stating that the insurer has and will keep in effect on behalf of the pharmacy benefit manager a policy of insurance covering the legal liability of the licensed pharmacy benefit manager's erroneous acts or failure to act in its[his or her] capacity as a pharmacy benefit manager, and payable to the benefit of any aggrieved party in the sum of not less than \$1,000,000; or

2. A cash surety bond issued by a corporate surety authorized to issue surety bonds in this commonwealth, in the sum of \$1,000,000, which shall be subject to lawful levy of execution by any party to whom the licensee has been found to be legally liable;

(d) The name of at least one (1) responsible individual who shall be responsible for the pharmacy benefit manager's compliance with KRS Chapter 304 and KAR Title 806 and who is:

1. Licensed as an administrator in Kentucky; and
2. Designated in accordance with KRS 304.9-133;

(e) If performing utilization review in accordance with KRS 304.17A-607, the pharmacy benefit manager's utilization review registration number;

(f) The following written policies and procedures to be used by the pharmacy benefit manager:

1. ~~[Appeals dispute resolution process required by KRS 304.17A-617 to 304.17A-633;~~
~~2.]~~ [Maximum allowable cost appeals process;] An appeals process for any pricing system used to determine the cost of a generic drug required by KRS 304.17A-162;

2.[3.] Exceptions policy [and override policy] required by 45 C.F.R. 156.122(c) and KRS 304.17A-535(4)[304.17A-163, and KRS 304.17A-165]; and

3.[4.] Pharmacy and Therapeutics committee membership standards and duties [as] required by 45 C.F.R. 156.122(a); [and]

(g) Proof of a registered agent and office[registration] with the Kentucky Secretary of State in accordance with KRS 14A.4-010;

(h) Provide a listing of all clients PMB provides services to including any non-ERISA self-funded or governmental plans; and

(i) Provide a listing of any delegated or contracted companies that perform part of the PBM services.

(2)(a) Upon receipt of a complete application as required by subsection (1) of this section, the commissioner shall review the application and:

1.a. Approve the application; and

b. Issue the applicant the pharmacy benefit manager license;

2. Notify the applicant that additional information is needed in accordance with paragraph (b) of this subsection; or

3. Deny the application in accordance with paragraph (c) of this subsection.

(b)1. If supplemental or additional information is necessary to complete the application, the applicant shall submit that information within thirty (30) days from the date of the notification from the commissioner.

2. If the missing or necessary information is not received within thirty (30) days from the date of the notification, the commissioner shall deny the application unless good cause is shown. To determine if the applicant has demonstrated good cause, the commissioner shall weigh the justification provided against any other issues, including [such as] if the applicant had submitted any prior good cause excuses for the same request. Some examples of good cause include:

a. Personnel-related [Personnel-related] issues, including [such as] the individual responsible for responding was transferred, terminated, or became incapacitated due to illness;

b. A need to obtain information that was not immediately available and had to be requested from other sources;

c. A lack of sufficient resources to respond to large requests; and

d. Information technology ~~[(IT)]~~, operational, or equipment malfunctions causing unexpected delays.

(c) If the commissioner determines that the applicant does not meet the requirements for licensure, or if the application is denied pursuant to paragraph (b)2. of this subsection, the commissioner shall:

1. Provide written notice to the applicant that the application has been denied; and

2. Advise the applicant that a request for a hearing may be filed in accordance with KRS 304.2-310.

(3)(a) Except as provided in paragraph (b) of this subsection, a pharmacy benefit manager license shall:

1. Be renewed annually as required by subsection (4) of this section; or

2. Expire on March 31.

(b) If the license was issued on or before January 1, 2017, the license shall expire on March 31, 2018, if not renewed as required by subsection (4) of this section.

(4)(a) A renewal application shall include the items required by subsection (1) of this section.

(b) If the renewal application is submitted between April 1 and May 31, the application required by subsection (1) of this section shall be accompanied by a penalty fee of \$500 in accordance with KRS 304.9-053(5).

Section 3. Notice of Changes. Within thirty (30) days of any change, a licensee shall notify the commissioner of all changes among its members, directors, officers, and other individuals designated or registered to the license, any changes to the~~including a~~ listing of clients ~~identifying any self-funded non-ERISA plans~~ and ~~any~~ delegated contractors provided in the most recent application filed by the licensee, and any changes to its written policies and procedures submitted pursuant to Section 2(1)(f) of this administrative regulation.

Section 4. Incorporation by Reference. (1) "Pharmacy Benefit Manager License Application", Form PBM, 02/2021/07/2020 [04/2017], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Insurance, Mayo-Underwood Building, 500 Mero Street [215 West Main Street], Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

CONTACT PERSON: DJ Wasson, Deputy Commissioner, 500 Mero Street, Frankfort, Kentucky 40601, phone +1 (502) 564-6026, fax +1 (502) 564-1453, email dj.wasson@ky.gov.

MATERIAL INCORPORATED BY REFERENCE

The agency at the time that it files this staff suggested amendment needs to file one (1) clean copy of the "Pharmacy Benefit Manager License Application, Form PBM" that includes the following changes:

- Updates the edition date to February 2021
- In Section 5, 11., address the issue that this language in (11.), "Attach a listing of all clients the PBM provides services to, including any non-ERISA self-funded or governmental plans.", appears redundant to the requirement on Page 1, Section 1 stating "Listing of entities/individuals for which a PBM provides services (within Kentucky only)".
- Change language in Section 5, 13., to state "Attach proof of a registered agent and office with the Kentucky Secretary of State in accordance with KRS 14A.4-010".
- In Section 6, 2. Insert a comma after "state" and a comma after "former employer".
- Change language in Section 6, 4., to state "I acknowledge that I understand and shall comply with the insurance laws and regulations of Kentucky."

Check appropriate box for license requested:

- ☐ Resident License
☐ Non-Resident License

Identify Home State:

Identify Home State License #:
(if applicable)



**COMMONWEALTH OF KENTUCKY
DEPARTMENT OF INSURANCE**

P. O. Box 517

Frankfort, Kentucky 40602-0517

email: DOI.AgentLicensingMail@ky.gov

<http://insurance.ky.gov>

Ph. 502-564-6004 Fax 502-564-6030

(PLEASE PRINT OR TYPE)

For Office Use Only

Amt. Rec'd _____

Date Rec'd _____

Tracking No. _____

Cashier: _____

PHARMACY BENEFIT MANAGER LICENSE APPLICATION

☐ New License Application

☐ Renewal Application

| Section 1 – Demographic Information | | | | |
|---|---------------------|---|-------|--------------------------|
| Entity Name | | Incorporation/Formation Date (MM/DD/YY) | | FEIN |
| If assigned, National Producer Number (NPN) | | State of Domicile | | UR Registration #: |
| List any other assumed, fictitious, alias or trade names under which you are doing business or intend to do business. | | | | |
| Address of Home Office | | City | State | ZIP Code |
| Business Address (Physical Street) | | City | State | ZIP Code |
| Phone Number (include extension) () - | Fax Number () - | Business E-Mail Address | | Business Website Address |
| Mailing Address | P.O. Box | City | State | ZIP Code |
| Listing of entities/individuals for which the PBM provides services (within Kentucky only): | | | | |

Applicant Background Information

Attach a full explanation and/or the requested information for questions below as an attachment to this application. Failure to provide the required attachments or any omissions may result in the denial of this application.

| | | |
|---|------------------------------|-----------------------------|
| Has the applicant been refused a registration, license or certification to act as (or provide the services of) a Pharmacy Benefit Manager, Pharmacy Benefit Management Plan, Pharmacy Benefits Processor, Third Party Administrator, Third Party Provider, etc., or has any registration, license or certification to act as such been denied, suspended, revoked or non-renewed for any reason by any state or federal entity? (Attach specific details separately.) | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| Has the applicant ever been found liable in any lawsuit or arbitration proceeding involving allegations of fraud, illegal or dishonest activities in connection with the administration of pharmacy benefit management services? (Attach specific details separately.) | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| Has the applicant had a business relationship with an insurance company terminated for any alleged fraudulent, illegal or dishonest activities in connection with the administration of pharmacy benefit management services? (Attach specific details separately.) | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| Has the applicant, parent company or any company or organization controlling the operation of the Pharmacy Benefit Manager experienced any data security breaches or HIPAA security breaches? (If YES please attach all pertinent information concerning any data security breach. Any future data security breach must be reported immediately to the Kentucky Department of Insurance.) | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| Does the applicant own, operate or affiliate with any pharmacy located outside of Kentucky that ships, mails or delivers in any manner, controlled substances, prescription or legend drugs or devices into Kentucky? | <input type="checkbox"/> YES | <input type="checkbox"/> NO |

Section 2 – Service of Process Agent for Pharmacy Benefit Manager

Name _____
Address _____ City _____ State _____ ZIP Code _____
Phone Number () _____ E-Mail Address _____

Section 3 – Licensed Administrator Acting on Behalf of the Pharmacy Benefit Manager

According to KRS 304.9-133, a business entity shall have at least one licensed individual with same line of authority and shall have at least one licensed individual designated with the commissioner at all times. List primary licensed contact person(s) responsible for regulatory compliance on behalf of the Pharmacy Benefit Manager:

Name _____ Official Title _____
Phone: _____ Email: _____ NPN or DOI ID#: _____
Name _____ Official Title _____
Phone: _____ Email: _____ NPN or DOI ID#: _____
Name _____ Official Title _____
Phone: _____ Email: _____ NPN or DOI ID#: _____

Section 4 – Individuals Responsible for the Compliance and Conduct of Affairs for Pharmacy Benefit Manager

List all individuals responsible for the compliance/conduct of affairs, including members of the board of directors, board of trustees, executive committee, other governing board or committee, the principal officers in the case of a corporation, the partners or members in the case of a partnership or association, and any other person who exercises control or influence over the affairs of the Pharmacy Benefit Manager.

1. Name _____ Official Title _____
Address _____ Professional Qualifications _____
2. Name _____ Official Title _____
Address _____ Professional Qualifications _____
3. Name _____ Official Title _____
Address _____ Professional Qualifications _____
4. Name _____ Official Title _____
Address _____ Professional Qualifications _____
5. Name _____ Official Title _____
Address _____ Professional Qualifications _____
6. Name _____ Official Title _____
Address _____ Professional Qualifications _____
7. Name _____ Official Title _____
Address _____ Professional Qualifications _____
8. Name _____ Official Title _____
Address _____ Professional Qualifications _____

(Attach additional sheets if necessary)

Section 5 - Administration and Operation: The following documentation must be submitted with this application.

The documentation required to be submitted in this section should be submitted as a Portable Document Format (PDF) bookmarked document in accordance with the items listed below and submitted to the Department via email to DOI.PharmacyBenefitManager@ky.gov.

1. Attach a detailed description of the generic drug pricing dispute appeal process to be used by contracted pharmacies, pharmacy services and administration organizations or group purchasing organization, including the appeals policy and procedure, pursuant to KRS 304.17A-162 (1) (b).
2. Attach the policy and procedure used for making price updates warranted as a result of an appeal granted under KRS 304.17A-162, including PBM's means of providing notification to all other contracted pharmacies in the network.
3. Identify the national drug pricing compendia or sources used to obtain drug price data for every drug for which the PBM establishes a maximum allowable cost to determine the product reimbursement, pursuant to KRS 304.17A-162(3).
4. Identify the location of PBM's comprehensive list of every drug subject to generic drug pricing, per KRS 304.17A-162(4).
5. Attach the policy and procedure to be used for updating generic drug pricing every seven days and the PBM's ability to provide notification to all contracted pharmacies (KRS 304.17A-162 (6) and (7)).
6. Attach the policy and procedure that ensures that every drug subject to generic drug pricing meets requirements set forth in KRS 304.17A-162(8) through KRS 304.17A-162(13).
7. Attach the policy and procedure relating to the resolution of generic drug pricing complaints which are filed with the Kentucky Department of Insurance, including timeframes and sample appeal response letter. Provide a contact person's name, address, email, and telephone number for complaints.
8. Attach the *Exceptions Policy* that allows an enrollee, designee, or prescribing provider to gain access to clinically appropriate drugs not otherwise covered by the plan, and includes a standard and expedited procedure. (45 CFR 156.122 and KRS 304.17A-535).
9. Provide the policy that explains the process that gives the ability to access prescriptions from an in-network retail, unless special handling or another reason proves that the prescription cannot be provided by a retail pharmacy. (45 CFR 156.122).
10. Attach the policy explaining any Pharmacy and Therapeutics committee membership standards and duties, including how often the committee meets, structure, and the decision-making process. (45 CFR 156.122)
11. Provide a listing of any delegated/contracted companies that perform part of the PBM services.
12. Attach proof of financial responsibility in the amount of one million dollars (\$1,000,000).
13. Attach proof of a registered agent and office with the Kentucky Secretary of State in accordance with KRS 14A.4-010
14. Attach \$1,000 non-refundable fee (KRS 304.9-200(4)), made payable to the Kentucky State Treasurer.

The filing fee must be sent via US post to the address above with a copy of the application form attached to the check.

Section 6 - Applicant's Certification and Attestation

On behalf of the Pharmacy Benefit Manager, applicant hereby certifies, under penalty of perjury, that:

1. All of the information submitted in this application and attachments is true and complete and I am aware that submitting false information or omitting pertinent or material information in connection with this application is grounds for license or registration revocation and may subject me and the applicant to civil or criminal penalties.
2. The applicant grants permission to the Kentucky Department of Insurance or other appropriate party in the Commonwealth of Kentucky to verify any information supplied with any federal, state, or local government agency, current or former employer, or insurance company.
3. I authorize the Kentucky Department of Insurance to give any information they may have concerning me, as permitted by law, to any federal, state or municipal agency, or any other organization and I release the Kentucky Department of Insurance, and any person acting on their behalf, from any and all liability of whatever nature by reason of furnishing such information.
4. I acknowledge that I understand and shall comply with the insurance laws and regulations of Kentucky.
5. I hereby certify that I will furnish any additional information upon request.

Must be signed by an officer, director, or partner of the entity, or member or manager of a limited liability company who has authority to act on behalf of the entity:

Signature

Date

Typed or Printed Name

Title

Address line 1

Address line 2

City

State

ZIP



Andy Beshear
Governor

Rebecca W. Goodman
Secretary
Energy and Environment Cabinet

Commonwealth of Kentucky
Public Service Commission
211 Sower Blvd.
P.O. Box 615
Frankfort, Kentucky 40602-0615
Telephone: (502) 564-3940
Fax: (502) 564-3460
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Michael J. Schmitt
Chairman

Kent A. Chandler
Vice Chairman

Talina R. Mathews
Commissioner

March 1, 2021

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulations Compiler
Legislative Research Commission
029, Capitol Annex
702 Capitol Avenue Frankfort, Kentucky 40601



Re: 807 KAR 5:056. Fuel adjustment clause.

Dear Ms. Caudill:

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 807 KAR 5:056, the Public Service Commission proposes the attached amendment to 807 KAR 5:056.

Sincerely,

J.E.B. Pinney
Acting General Counsel
Kentucky Public Service Commission
211 Sower Boulevard
P.O. Box 615
Frankfort, Kentucky 40601
(502) 782-2587
Jeb.pinney@ky.gov

SUGGESTED SUBSTITUTE

Final Version: 3/1/2021 9:12 AM

ENERGY AND ENVIRONMENT CABINET Public Service Commission

807 KAR 5:056. Fuel adjustment clause.

RELATES TO: KRS 61.870 - 61.884, 143.020, Chapter 278

STATUTORY AUTHORITY: KRS 278.030(1), (2), 278.040(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 278.040(3) authorizes the Public Service Commission to promulgate administrative regulations to implement the provisions of KRS Chapter 278. KRS 278.030(1) authorizes utilities to demand, collect, and receive fair, just, and reasonable rates. KRS 278.030(2) requires every utility to furnish adequate, efficient, and reasonable service. This administrative regulation establishes the requirements with respect to the implementation of automatic fuel adjustment clauses by which electric utilities may immediately recover increases in fuel costs subjected to later scrutiny by the Public Service Commission.

Section 1. Fuel Adjustment Clause. Fuel adjustment clauses that are not in conformity with the requirements established in subsections (1) through (6) of this section are not in the public interest and may result in suspension of those parts of the rate schedules based on severity of the nonconformity and any history of nonconformity. [?]

(1) The fuel adjustment clause shall provide for periodic adjustment per Kilowatt Hour (KWH) of sales equal to the difference between the fuel costs per KWH sale in the base period and in the current period according to the following formula:

$$\text{Adjustment Factor} = \frac{F(m)}{S(m)} - \frac{F(b)}{S(b)}$$

Where F(b) is the cost of fuel in the base period, F(m) is the cost of fuel in the current period, S(b) is sales in the base period, and S(m) is sales in the current period, all as **established in subsections (2) through (6) of this section**~~defined below~~.

(2) F(b)/S(b) shall be determined so that on the effective date of the commission's approval of the utility's application of the formula, the resultant adjustment shall be equal to zero.

(3) Fuel costs (F) shall be the most recent actual monthly cost, based on weighted average inventory costing, of:

(a) Fossil fuel consumed in the utility's own plants, and the utility's share of fossil and nuclear fuel consumed in jointly owned or leased plants, plus the cost of fuel that would have been used in plants suffering forced generation or transmission outages, but less the cost of fuel related to substitute generation; plus

(b) The actual identifiable fossil and nuclear fuel costs associated with energy purchased for reasons other than as established in paragraph (c) of this subsection, but excluding the cost of fuel related to purchases to substitute for the forced outages; plus

(c) The net energy cost of energy purchases, exclusive of capacity or demand charges irrespective of the designation assigned to the transaction, if the energy is purchased on an economic dispatch basis. Costs, such as the charges for economy energy purchases, the charges as a result of scheduled outage, and other charges for energy being purchased by the buyer to substitute for the buyer's own higher cost energy, may be included; and less

(d) The cost of fossil fuel recovered through intersystem sales, including the fuel costs related to economy energy sales and other energy sold on an economic dispatch basis.

(4) Forced outages ~~are~~shall include~~[are]~~ all nonscheduled losses of generation or transmission that require substitute power for a continuous period in excess of six (6) hours. If forced outages are not the result of faulty equipment, faulty manufacture, faulty design, faulty installations, faulty operation, or faulty maintenance, but are Acts of God, riot, insurrection, or acts of the public enemy, then the utility may, upon proper showing, with the approval of the commission, include the fuel cost of substitute energy in the adjustment. In making the calculations of fuel cost (F) in subsection (3)(a) and (b) of this section, the forced outage costs to be subtracted shall be no less than the fuel cost related to the lost generation until approval is obtained.

(5) Sales (S) shall be all KWH's sold, excluding intersystem sales. Utility used energy shall not be excluded in the determination of sales (S). If, for any reason, billed system sales cannot be coordinated with fuel costs for the billing period, sales may be equated to:

(a) Generation; plus

(b) Purchases; plus

(c) Interchange-in; less

(d) Energy associated with pumped storage operations; less

(e) Intersystem sales referred to in subsection (3)(d) of this section~~above~~~~[of this section]~~;

less

(f) Total system losses.

(6) The cost of fossil fuel shall only include the cost of the fuel itself and necessary charges for transportation of the fuel from the point of acquisition to the unloading point, as listed in Account 151 of FERC Uniform System of Accounts for Public Utilities and Licensees, less any cash or other discounts.

Section 2. Filing Requirements. (1) If a utility initially proposes a fuel adjustment clause, the utility shall submit copies of each fossil fuel purchase contract not otherwise on file with the commission and all other agreements, options, amendments, modifications, and similar documents related to the procurement of fuel supply or purchased power.

(2) Any changes in the contracts or other documents filed pursuant to subsection (1) of this section, including price escalations, and any new agreements entered into after the initial submission, shall be submitted at the time they are entered into.

(3) If fuel is purchased from utility-owned or controlled sources, or the contract contains a price escalation clause, those facts shall be noted, and the utility shall explain and justify them in writing.

(4) The monthly fuel adjustment shall be filed with the commission no later than ten (10) days before it is scheduled to go into effect, along with all the necessary supporting data to justify the amount of the adjustment.

(5) Copies of all documents required to be filed with the commission under this administrative regulation shall be open and made available for public inspection at the office of the Public Service Commission pursuant to the provisions of KRS 61.870 [to] through 61.884.

Section 3. Review of Fuel Adjustment Clauses. (1) Fuel charges that are unreasonable shall be disallowed and may result in the suspension of the fuel adjustment clause based on the severity of the utility's unreasonable fuel charges and any history of unreasonable fuel charges.

(2) The commission on its own motion may investigate any aspect of fuel purchasing activities covered by this administrative regulation.

(3)(a) At six (6) month intervals, the commission shall conduct a formal review and may conduct public hearings on a utility's past fuel adjustments.

(b) The commission shall order a utility to charge off and amortize, by means of a temporary decrease of rates, any adjustments the commission finds unjustified due to improper calculation or application of the charge or improper fuel procurement practices.

(4)(a) Every two (2) years following the initial effective date of each utility's fuel clause, the commission shall conduct a formal review and evaluate past operations of the clause, disallow improper expenses and, to the extent appropriate, reestablish the fuel clause charge in accordance with Section 1(2) of this administrative regulation.

(b) The commission may conduct a public hearing if the commission finds that a hearing is necessary for the protection of a substantial interest or is in the public interest.[]

~~(5) For any contracts entered into on or after December 1, 2019, the commission shall, in determining the reasonableness of fuel costs in procurement contracts and fuel procurement practices, evaluate the reasonableness of fuel costs in contracts and competing bids based on the cost of the fuel less any coal severance tax imposed by any jurisdiction.]~~

CONTACT PERSON: John E.B. Pinney, Acting General Counsel, Kentucky Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky 40601, phone (502) 782-2587, mobile (502) 545-6180, fax (502) 564-7279, email Jeb.Pinney@ky.gov.

ANDY BESHEAR
GOVERNOR

JONATHAN RABINOWITZ
CHAIRMAN

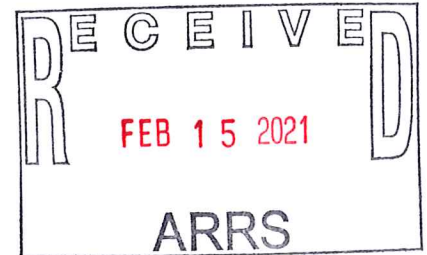


KERRY B. HARVEY
SECRETARY

MARC A. GUILFOIL
EXECUTIVE DIRECTOR

PUBLIC PROTECTION CABINET
KENTUCKY HORSE RACING COMMISSION
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TELEPHONE: (859) 246-2040 FAX: (859) 246-2039
WEBSITE: [HTTP://KHRC.KY.GOV](http://KHRC.KY.GOV)

February 15, 2021



Emily Caudill, Regulations Compiler
Legislative Research Commission
029, Capitol Annex
702 Capitol Avenue
Frankfort, KY 40601

RE: Summary of 810 KAR 4:010 Agency Amendment

Via Electronic Mail

Dear Ms. Caudill:

Please allow this letter to serve as a reminder of the KHRC's November 19, 2020 agency amendment to 810 KAR 4:010 proposed by the Kentucky Horse Racing Commission ("KHRC"), following that regulatory amendment's initial agency approval on October 20, 2020.

The KHRC seeks to insert the words, "or its successor," following the phrase "Thoroughbred Racing Protective Bureau," in Section 3(3)(b), so as to ensure that the electronic identification of horses by microchip can continue to be verified by the appropriate entity, in the event that the Thoroughbred Racing Protective Bureau is ultimately succeeded by another organization.

Please do not hesitate to contact me if you have any questions or concerns about this agency amendment. Thank you for your continued guidance with our regulations.

Very truly yours,

A handwritten signature in cursive script that reads "Jennifer Wolsing".

Jennifer Wolsing
General Counsel



**Agency Amendment
Public Protection Cabinet
Kentucky Horse Racing Commission**

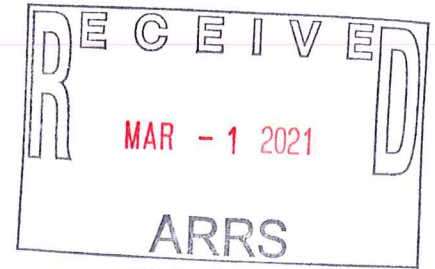
810 KAR 4:010: Horses

Page 3

Section 3(3)(b)

Line 10

After "Thoroughbred Racing Protective Bureau," insert the following:
or its successor



Andy Beshear
Governor

Kerry B. Harvey
Secretary

Ray Perry
Deputy Secretary

PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction

500 Mero Street, Floor 1
Frankfort, Kentucky 40601
Phone: 502-573-0365
Fax: 502-573-1057
www.dhbc.ky.gov

Rick Rand
Commissioner

Max Fuller
Deputy Commissioner

March 1, 2021

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

Re: 815 KAR 20:150 Inspections and tests

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 815 KAR 20:150, the Department of Housing, Buildings & Construction proposes the attached amendments. Thank you.

Sincerely,

/s/ Benjamin Siegel

Benjamin Siegel
General Counsel
Department of Housing,
Buildings & Construction
500 Mero Street
Frankfort, Kentucky 40601

AGENCY AMENDMENT TO AS AMENDED ADMINISTRATIVE REGULATION

Final 3/1/2021 8:48 AM

PUBLIC PROTECTION CABINET

Department of Housing, Buildings and Construction

Division of Plumbing

(As Amended at ARRS, January 13, 2021)

Proposed Agency Amendments Highlighted

815 KAR 20:150. Inspections and tests.

RELATES TO: KRS 318.090, 318.130, 318.134, 318.140, 318.160, 318.170

STATUTORY AUTHORITY: KRS 198B.040(10), 318.130

NECESSITY, FUNCTION, AND CONFORMITY: KRS 318.130 requires the department to promulgate an administrative regulation establishing the Kentucky State Plumbing Code. KRS 318.160 requires a person who constructs, installs, or extensively alters any plumbing, sewerage, or water supply system of any public building or establishment to obtain approval of the department in writing. This administrative regulation establishes the requirements for the tests and inspections that are necessary in order to ensure compliance with 815 KAR Chapter 20, the Kentucky State Plumbing Code.

Section 1. Required Inspections and Tests. (1) Required inspections. The department shall inspect the following to ensure compliance with the code:

- (a) The water distribution system;
- (b) The soil, waste, and vent system;
- (c) The fixtures and fixture traps;
- (d) Appurtenances; and
- (e) All connections in a plumbing system.

(2) Required tests. Tests shall be made separately or as follows:

- (a) The house sewer and its branches from the property line to the house drain;
- (b) The house drain including its branches;
- (c) The soil, waste, and vent system;
- (d) Inside rain water conductors; and
- (e) The final inspection and air test which shall include the complete plumbing system as required by Section 3(2) of this administrative regulation, exclusive of the house sewer.

(3) Rough-in inspection.

(a) The plumbing system shall not be covered until it has been inspected, tested, and approved.

(b) A rough-in inspection shall be conducted prior to the covering or concealment of the plumbing system.

(c) If any part of a plumbing system is covered or concealed before being inspected, tested, and approved, it shall be uncovered, or unconcealed and tested as required.

(4) Condemned buildings. In buildings condemned by other authorities because of unsanitary conditions of the plumbing system, necessary alterations shall be considered a new plumbing

system.

(5) Tests of alterations, extensions, or repairs. Any alterations, repairs, or extensions that require more than ten (10) feet of soil, waste, or vent piping shall be inspected and tested as required by Section 3(2) of this administrative regulation.

Section 2. Permit Holder Requirements. The person procuring the plumbing permit shall:

- (1) Furnish all equipment, material, and labor necessary for inspections and tests;
- (2) Notify the department representative and request a rough-in inspection for the plumbing system prior to the plumbing system being concealed or covered within the floors or walls of a building; and
- (3) Notify a department representative and request a final inspection and air test upon completion of the installation.

Section 3. Requirements for Remote Inspection. (1) A master plumber may request a plumbing inspection from the department conducted by live video or submission of recorded video ~~or photograph~~ if the master plumber holds a certificate of completion issued by the department.

(2) Certificate of completion. (a) The department shall issue a certificate of completion to a master plumber who has successfully completed a training course provided by the department that shall cover the following topics:

1. Technology necessary for effective remote inspection;
2. Information to be conveyed and shown by the master plumber to the department; and
3. How to show corrections made to installations that failed remote inspection.

(b) A certificate of completion issued to a master plumber pursuant **paragraph (a) of this subsection**~~[section 3(2)(a) of this administrative regulation]~~ shall be valid for a period of three (3) years from the date of issuance, after which the certificate shall expire **unless renewed prior to expiration as established in paragraph (c) of this subsection**. A master plumber whose certificate of completion has expired shall not be eligible to request or receive remote inspections.

(c) A certificate holder may renew **his or her**~~[their]~~ certificate of completion by completing **the**~~[a]~~ training course **established in paragraph (a) of this subsection**~~[described in section 3(2)(a) of this administrative regulation]~~.

(3) The department **shall**~~[may]~~ deny a request for remote inspection if:

- (a) **1. The scope of the work is too complex for remote inspection.**
- 2. Examples of work too complex for remote inspection shall include:**
 - a. Medical gas installation inspections; and**
 - b. Inspections of plumbing installations that require multiple visits from the inspector prior to the system being placed on a test;**

(b) **1. Remote inspection is not feasible or practical.**

2. Examples of remote inspections that are not feasible or practical shall include:

- a. Inspections during which cellular or internet reception is not consistent or reliable;**
- b. Poor video quality; and**
- c. Technical issues that prevent clear inspection; or**

(c) **1. The situation would not provide an adequate inspection if done remotely**~~[Any oth-~~

or reason is articulated in writing to the certificate holder by the department].

2. Examples of situations that would not provide adequate inspection if done remotely shall include:

a. Underground plumbing installations that require more than one (1) inspection;

b. Rough-in inspections that would require more than one (1) inspection to fully inspect the entire rough-in piping system; and

c. Final plumbing inspections on new construction.

(4) Remote inspection seals. (a) A certificate holder may request numbered remote inspection seals from the department to place on completed plumbing installations that are approved for remote inspection. The request shall be made by by submitting a completed form PLB-4, Application for Plumbing Remote Inspection Seals, to the department.

(b) Except for the initial request for remote inspection seals, a certificate holder requesting seals shall submit a completed form PLB-5, Plumbing Remote Inspection Seal Verification, to the department prior to receiving remote inspection seals.

(c) A certificate holder shall:

1. Affix a seal to a completed plumbing installation for which he or she has been approved for remote inspection;

2. Not affix a seal to a plumbing installation if[when] he or she has not submitted videos [or photographs] of the installation to the department or participated in a live video inspection with the department; and

3. Not allow seals he or she received from the department to be used by another.

(d) The department shall:

1. Assign an inspection number to the permit and seal for a plumbing installation that has successfully passed all required remote inspections and tests; and

2. Complete remote inspections that are not live video within three (3) business days of receipt of videos [or photographs] of the completed plumbing installation eligible for remote inspection.

(e) A property owner, property owner's designee, or certificate holder shall write the inspection number assigned by the department on the seal the inspection number is assigned to upon successful passage of all required inspections and tests.

(5) Notification of noncompliance. The department shall immediately issue a notification of noncompliance in writing to the certificate holder upon finding deficiencies in the documentation submitted for remote inspection.

(6) Corrections to noncompliant installations. A plumbing installation found to be noncompliant through remote inspection shall be corrected within ten (10) business days upon receiving notice of noncompliance from the department. Failure to make the required corrections may result in the termination of the certificate holder's certificate of completion.

(7) Penalties. A certificate holder who knowingly engages in activity intended to defraud or deceive a plumbing inspector or any other agent of the department shall be subject to certificate and license revocation or suspension.

(8) Department determinations established in subsections (6) and (7) of this section may be appealed to the department. An appeal shall be conducted pursuant to KRS Chapter 13B.

Section 4[3]. Testing of Systems. (1) The water distribution system, as well as the water service, shall be:

(a) Tested with air or water under a pressure of not less than the maximum working pressure under which it is to be used; and

(b) Free from leaks.

(2)(a) Except as provided in subsection (3) of this section, a water test shall be performed:

1. On the entire soil, waste, and vent system; or

2. In sections.

(b) If it is applied to the entire system, all openings shall be closed, except the highest opening and the system shall be filled with water to the point of overflow.

(c) If the system is tested in sections, each opening shall be tightly plugged, except the highest opening and it shall be tested with not less than a ten (10) foot head of water. In testing successive sections, at least the upper ten (10) feet of the preceding section shall be retested.

(3) In lieu of a water test, an air pressure test may be used by attaching an air compressor or test apparatus to any suitable opening. All other inlets and outlets to the system shall be closed, forcing air into the system until there is a uniform pressure of five (5) pounds per square inch (PSI). The pressure shall be maintained for fifteen (15) minutes.

(4) After the plumbing fixtures have been set and their traps filled with water and before the building is occupied, the final air test shall test the entire soil, waste, and vent system including the fixtures and appurtenances, other than a house sewer, by connecting an air machine to any suitable opening or outlet and applying air pressure equivalent to a one (1) inch water column. It shall be maintained for at least a fifteen (15) minute period. If there are no leaks or forcing of trap seals as may be indicated by the functioning of a drum, float, or water column, the system shall be determined as airtight.

(5) A garage drainage system shall be tested in the same manner as the soil, waste, and vent system.

(6) A house sewer shall be tested by a water, air, or smoke test. A four (4) inch test tee or Y connection shall be provided at the property line for testing.

(7) The department may require the removal of any clean-outs to ascertain if the pressure has reached all parts of the system

(8) A building sewer not drained by gravity shall have a minimum of twenty-four (24) inches of cover and shall be tested with five (5) pounds per square inch for a period of fifteen (15) minutes.

(9) Inside rain water conductors shall be tested with water, air, or smoke test.

Section 5[4]. Defective Work. If an inspection or a test indicates defective work or material, it shall be replaced and the inspection and the test repeated.

Section 6[5]. Testing Defective Plumbing. An air test shall be used in testing the condition of a plumbing system if there is reason to believe it has become defective.

Section 7[6]. Certificate of Approval. The department shall issue a certificate of approval upon the satisfactory completion and final test of the plumbing system.

Section 8. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Application for Plumbing Remote Inspection Seals", Form PLB-4, June 2020; and

(b) "Plumbing Remote Inspection Seal Verification", Form PLB-5, June 2020.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Housing, Buildings and Construction, 500 Mero Street, Frankfort, Kentucky 40601-5412, Monday through Friday, 8 a.m. to 4:30 p.m. and is available online at dhbc.ky.gov.

CONTACT PERSON: Benjamin Siegel, General Counsel, Department of Housing, Buildings and Construction, 500 Mero Street, 1st Floor, Frankfort, Kentucky 40601, phone (502) 782-0604, fax (502) 573-1057, email benjamin.siegel@ky.gov.



CABINET FOR HEALTH AND FAMILY SERVICES
Office of the Secretary

Andy Beshear
Governor

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Eric C. Friedlander
Secretary

February 2, 2021

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

Re: 902 KAR 10:131 – Suggested Amendment

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 902 KAR 10:131, the Department for Public Health proposes the enclosed suggested amendment to 902 KAR 10:131.

If you have any questions regarding this matter, please contact Julie Brooks, Department for Public Health, at 564-3970, extension 4069.

Sincerely,

Donna Little
Deputy Executive Director
Office of Legislative and Regulatory Affairs

Final 1-28-2021

SUGGESTED AMENDMENT

**CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Public Health Protection and Safety**

902 KAR 10:131. Repeal of 902 KAR 10:060 and 902 KAR 10:130.

Page 1

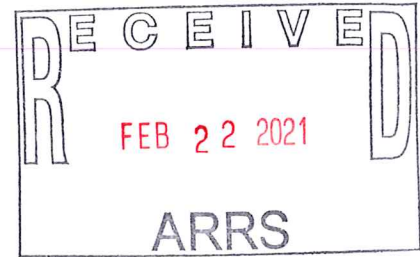
NECESSITY, FUNCTION, AND CONFORMITY

Line 17

After "been added to", insert the following:

902 KAR 10:110 and 902 KAR 10:170

Delete "the administrative regulations".



CABINET FOR HEALTH AND FAMILY SERVICES
Office of the Secretary

Andy Beshear
Governor

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Eric C. Friedlander
Secretary

February 22, 2021

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

Re: 902 KAR 10:140– Suggested Substitute

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 902 KAR 10:140, the Department for Public Health proposes the enclosed suggested substitute to 902 KAR 10:140.

If you have any questions regarding this matter, please contact Julie Brooks, Department for Public Health, at 564-3970, extension 4069.

Sincerely,

Donna Little
Deputy Executive Director
Office of Legislative and Regulatory Affairs

Final 2-2-2021

SUGGESTED SUBSTITUTE

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Public Health Protection and Safety

902 KAR 10:140. On-site sewage disposal system installer certification program standards.

RELATES TO: KRS 211.015, 211.360, 211.375, 211.970~~[211.350-211.380]~~, 211.990(2)

STATUTORY AUTHORITY: KRS Chapter 13B, 211.350~~[194.050, 211.090(3), 211.180(3)]~~, 211.357~~[, EO 96-862]~~

NECESSITY, FUNCTION AND CONFORMITY: KRS 211.350 requires~~[authorizes]~~~~[to 211.380 directs]~~ the cabinet to regulate the construction, installation, or alteration of on-site sewage disposal systems except for systems with a surface discharge. ~~[:] KRS 211.357 re-~~quires~~[authorizes]~~~~[directs]~~ the cabinet to establish a program of certification for installers of on-site sewage disposal systems. ~~[The purpose of]~~ This administrative regulation ~~establishes the~~~~[is to fulfill the requirement to establish a]~~ certification program including competency testing, training, continuing education, and enforcement procedures relative to maintenance of an acceptable standard of competency for installers. ~~[Executive Order 96-862, effective July 2, 1996, reorganizes the Cabinet for Human Resources and places the Department for Public Health and its programs under the Cabinet for Health Services.]~~

Section 1. Definitions. ~~[As used in this administrative regulation the following terms shall have the meanings set for the below:]~~ (1) "Approved" is defined by KRS 211.970(1)~~[means that which has been considered acceptable to the cabinet].~~

(2) "Cabinet" is defined by KRS 211.015(1)(a)~~[means the Cabinet for Health Services and includes its authorized agents].~~

(3) "Certification level" means the level of technical skills and knowledge attained by an installer as categorized below:

(a) "Probationary level" means the certification entry level for an installer as specified in KRS 211.357(2) and Section 2(3) of this administrative regulation;~~[211.357(2). Installers at this level may possess minimal technical knowledge and require additional training and frequent technical assistance in design and installation procedures; and]~~

(b) "Full level" means the certification level attained by an installer as specified in KRS 211.357(2) and Section 2(4) of this administrative regulation;

(c) "Advanced level" means the certification level attained by an installer as specified in Section 2(5) of this administrative regulation; and

(d) "Master level" means the certification level attained by an installer as specified in Section 2(6) of this administrative regulation~~[installers at this level are expected to possess competency in design and installation of conventional and modified conventional on-site systems but may require additional training and occasional technical assistance for alternative systems or complex designs].~~

(4) "Certified inspector" means a person employed by the cabinet or by a local health department who has met the requirements for certification contained in KRS 211.360~~[211.357]~~.

(5) "Certified installer" means a specific individual person who has met the requirements for certification contained in KRS 211.357 and the certification maintenance requirements contained in this administrative regulation.

(6) "Competency" means an acceptable level of professional conduct, workmanship, and

technical knowledge in the design and installation of on-site sewage disposal systems.

(7) "On-site sewage disposal system", "on-site sewage system", or "on-site system" means a complete system installed on a parcel of land, under the control or ownership of any person, ~~that[which]~~ accepts sewage for treatment and ultimate disposal under the surface of the ground, ~~including[. The common terms "on-site sewage system" or "on-site system" also have the same meaning. This definition includes, but is not limited to, the following]:~~

(a) A conventional system consisting of a sewage pretreatment unit or units[unit(s)], distribution ~~devices[box(es)]~~, and lateral piping within rock-filled trenches or beds;

(b) A modified system consisting of a conventional system enhanced by shallower trench or bed placement, artificial drainage systems, dosing, alternating lateral fields, fill soil over the lateral field, or other necessary modifications to the site, system or wasteload to overcome site limitations;

(c) An alternative system consisting of a sewage pretreatment unit or units[unit(s)], necessary site modifications, wasteload modifications, and a subsurface soil treatment and dispersal[absorption] system using other methods and technologies than a conventional or modified system to overcome site limitations;

(d) ~~A cluster system[systems which accept effluent from more than one (1) structure's or facility's sewage pretreatment unit(s) and transport the collected effluent through a sewer system to one (1) or more common subsurface soil absorption system(s) of conventional, modified or alternative design]; and~~

(e) A holding tank ~~that[which]~~ provides limited pretreatment and storage for off-site disposal where site limitations preclude immediate installation of a subsurface soil treatment and dispersal[absorption] system, or connection to a municipal sewer.

(8) "Person" is defined by KRS 211.970(6)[means any individual, firm, corporation, association, organization, partnership, business trust, company or governmental unit].

Section 2. Application for Certification. (1) ~~A/No~~ person shall **not** offer services to construct, install, alter, or repair on-site sewage disposal systems without:

(a) Meeting the application ~~requirement[requirements]~~ **requirement** of this administrative regulation[the cabinet for certification]; and

(b) Obtaining a valid certification card from the cabinet.

(2) Certification shall be:

(a) Nontransferable from one (1) person to another; and

(b) Valid statewide subject to the provisions of KRS 211.357 and this administrative regulation.

(3)(a) ~~A person~~**Persons** seeking probationary **level** certification shall:

1. Be of legal age to conduct business in Kentucky;

2. Have sufficient skills and knowledge of **administrative** regulations and construction techniques to pass a minimum competency examination;

3. Submit a completed DFS-303, Application for Certification or Registration, incorporated by reference in 902 KAR 45:065, to the local health department;

4. Provide proof of liability insurance; and

5. Pay the test registration fee of twenty-five (25) dollars by check or money order made payable to the local health department.

(b) A passing score of at least seventy (70) percent ~~shall~~**must** be achieved on the exam.

(c) ~~An individual~~**Individuals** failing to achieve a passing score may retake the exam by re-registering and submitting another registration fee.

(d) ~~An individual~~**Individuals** who ~~passes~~**pass** the exam shall submit to the cabinet a forty-five (45) dollar certification fee by check or money order made payable to the Kentucky State Treasurer.

(4) ~~A person~~**Persons** seeking full **level** certification shall:

(a) Have continuously maintained probationary level status in good standing;
(b) Meet the requirements as specified in KRS 211.357(2);
(c) Submit the documentation required in subsection (3)(a)3 and (4) of this section; and
(d) Maintain requirements for certification as specified in Section 4 of this administrative regulation.

(5) A person[Persons] seeking advanced level certification shall:
(a) Have continuously maintained full level status in good standing;
(b) Submit the documentation required in subsection (3)(a)3 and (4) of this section;
(c) Complete the necessary training workshops with passing scores on workshop tests to obtain advanced level certification as required by the cabinet; and
(d) Maintain requirements for certification as specified in Section 4 of this administrative regulation.

(6) A person[Persons] seeking master level certification shall:
(a) Have continuously maintained advanced level status in good standing;
(b) Submit the documentation required in subsection (3)(a)3 and (4) of this section;
(c) 1. Installed a minimum of two (2) systems as specified in Section 3(4) of this administrative regulation; and
2. Submit written verification of passed inspection from a certified inspector employed by the local health department having jurisdiction; and

(d) Maintain requirements for certification as specified in Section 4 of this administrative regulation~~[Any person proposing to offer services to construct, install, alter or repair on-site sewage disposal systems shall first have met the application requirements of the cabinet for certification and have obtained a valid certificate from the cabinet. Applications shall be made on form DFS-233 Application for Certification to Install On-site Sewage Disposal Systems provided by the cabinet and shall include necessary information about the applicant, and shall be accompanied by an applicable fee as established in KRS 211.357(3).~~

~~(2) For probationary certification applicant's qualifications shall be as follows:~~

~~(a) Applicant shall be a specific individual person of legal age to conduct business in Kentucky;~~

~~(b) Applicant shall have sufficient skills and knowledge of regulations and construction techniques to pass a minimum competency examination;~~

~~(c) Applicant shall possess or have ready access to use of necessary construction equipment including a backhoe, dump truck, hand tools, transit or level and leveling rod; and~~

~~(d) Applicant shall submit proof of liability insurance.~~

~~(3) Applicant's qualifications for full certification shall be as follows:~~

~~(a) As specified in subsection (2)(a) through (d) of this section; and~~

~~(b) As specified in KRS 211.357(2)~~

~~(4) Applicants meeting the qualifications listed above shall be issued the appropriate certificate by the cabinet.~~

~~(5) Certification shall be valid only for the specific individual person to which it was issued and is not transferable to another person. Certification shall remain in effect and be valid statewide subject to the provisions of this regulation and KRS 211.357].~~

Section 3. Certification Level Standards. Certification level standards shall be limited to on-site systems that utilize only the following:

(1) Probationary certification level is limited to residential, on-site systems utilizing:

(a) Gravity distribution;

(b) Rock-filled trenches or beds;

(c) Leaching chamber trenches or beds; or

(d) Evaporation-absorption lagoons.

(2) Full certification level is able to install residential, commercial, industrial, or public facility

systems utilizing:

- (a) Dosed systems;
- (b) Fill and wait systems;
- (c) Leaching chambers at grade; or
- (d) Constructed wetlands; and
- (e) Probationary certification level system listings.

(3) Advanced certification level is able to install residential, commercial, industrial, or public facility systems utilizing:

- (a) Low pressure pipe systems;
- (b) Mounds;
- (c) Drip irrigation;
- (d) Advanced treatment;
- (e) Experimental technology; or
- (f) Cluster systems; and
- (g) Probationary and full certification level system listings.

(4) Master certification level is able to install residential, commercial, industrial, or public facility systems utilizing probationary, full, and advanced certification level system listings.

Section 4. Maintenance of Certification. (1) ~~Each person~~**[All persons]** holding a valid certification under KRS 211.357 shall be required to:

(a) Attend training workshops offered by the cabinet to maintain certification and improve competency based on the level of certification attained;

(b) Maintain and submit proof of liability insurance annually to the local health department;
and

(c) Annually pay the certification fee as required by Section 2(3)(d) of this administrative regulation to the Kentucky Department for Public Health.

(2) An installer whose certification has expired shall:

(a) Comply with subsection (1) of this section;

(b) Submit proof of completion of continuing education units; and

(c) Receive a renewal certification card prior to installing an on-site sewage system.

(3) For all certification levels, ~~Attendance at~~ a minimum of two (2) training workshops for a total of six (6) approved continuing education units per year with passing scores on workshop tests shall meet certification maintenance requirements.

(4)~~(3)~~ Attendance at workshops, seminars, or conferences not sponsored by the cabinet may be substituted on a one (1) for one (1) basis to meet certification maintenance requirements at the ~~determination~~**[discretion]** of the cabinet. Requests for consideration of other training for substitution shall be based upon the following:

(a) Submission of a copy of the training agenda, ~~speaker or presenter biographies~~, and course outlines; and

(b) Submission of proof of attendance and results of any testing or other performance measurement with verification by the training sponsor.

(5)~~(4)~~ Upon receipt of a request for training substitution the cabinet shall compare that training for equivalency with similar training it provides. If equivalency is demonstrated, the cabinet shall accept that training for substitution as specified in subsection ~~(4)~~**(3)** of this section.

(6)~~(5)~~ Any person failing to meet certification maintenance requirements shall be subject to administration action under Section ~~7~~**(6)** of this ~~administrative~~ regulation and KRS 211.357(4).

Section ~~5~~**[4]**. Training. (1) The cabinet shall develop and implement a series of training workshops for certified installers in the areas of on-site sewage disposal system design, technology, application and function.

(2) Training workshops shall be conducted throughout the state at frequencies, times, and

locations necessary to provide all certified installers a reasonable opportunity to attend a number of workshops sufficient to maintain certification.

(3) A schedule of training workshops, including dates, times, location, and topics~~], and registration forms]~~ shall be prepared and made available to all certified installers to notify them of training opportunities and allow for scheduling attendance.

(4) A series of training courses shall be developed including instructor and student manuals, and other audiovisual and written materials.

(5) The cabinet may charge a reasonable fee at each training workshop to support program costs.

(6) The cabinet shall establish, through grants or contracts, a training staff composed of local health department fully certified inspectors to conduct training workshops on a regional basis. These local instructors shall serve as supplemental staff to the cabinet and act under the direct supervision of the cabinet.

(7) Training workshops for staff and supplemental staff instructors shall be conducted to assure uniformity of training for certified installers.

(8) The cabinet may contract with other governmental agencies, private consultants, or professional organizations for specialized instructor services.

Section 6[5]. Materials and Equipment. (1) Each training course shall be developed into a training materials packet consisting of the following:

(a) Course outline;]

(b) Instructor script;]

(c) Trainee guide;]

(d) Audiovisual materials;]

(e) Trainee worksheets and reference sheets;]

(f) Test;]

(g) Instructor comment sheet; and]

(h) Trainee comment sheet.

(2) A complete training materials packet, in hardcopy or digital format~~[assembled in a loose-leaf, three (3) ring binder,]~~ shall be provided to each instructor for each course.

(3) A training material packet, excluding subsection (1)(b), (d) and (g) of this section, shall be provided to each trainee for each course.

(4) ~~[A loose leaf, three (3) ring binder shall be provided to each trainee at the first workshop attended. This binder shall be used by the trainee to assemble a reference manual for the first course and all subsequent courses attended.]~~

~~(5)]~~ Sufficient stocks of instructor and trainee material packets shall be maintained for each course to meet demand.

~~(5)[(6)]~~ Audiovisual equipment~~], including an overhead projector, slide projector, projection screen, videocassette player, and television monitor]~~ shall be available to each instructor.

Section 7[6]. Enforcement. (1) Failure of any certified installer to comply with the requirements of KRS 211.350, 211.357(4) and (5), 902 KAR 10:081, 902 KAR 10:085, or this administrative regulation shall result in administrative action being taken.

(2) A minimum six (6) months probationary period shall be assigned to any certified installer who:

(a) Fails final inspection on any two (2) consecutive systems that~~[which]~~ require follow-up inspections before approval is granted;

(b) Backfills any system before final inspection is conducted and approval to backfill is given;

(c) Fails final inspection on any system that~~[which]~~ results in reconstruction of the system before approval can be given;

(d) Fails to place, cause to be placed, or fails to supervise placement of any required addi-

tional fill soil over an installed system;

(e) Fails to call for final inspection of any system;

(f) Fails to be present on the site anytime work is being performed on the system under construction;

(g) Fails to provide name, certification number, and notification of intent on application of permit when performing excavation and backfilling work on permitted homeowner installations;
or

(h) Performs work on any system outside of the designated certification level.

(3) Probation may be assigned to a certified installer by the cabinet or by the certified inspector having local jurisdiction. Terms of the probationary period shall stipulate any restrictions, requirements, or additional training determined[deemed] necessary to correct performance.

(4) For other violations, the provisions of KRS 211.357(4) and (5) relating to suspension or revocation of certification shall apply. ~~[In addition, if necessary to correct damaged or abandoned systems or sites, surrender of business bond shall be required.]~~

(5) In all instances of administrative action being taken for probation, suspension or revocation, a certified installer shall have the right to request an administrative conference[hearing]. The request shall be submitted in writing on form DFS-212 - Request for Conference, incorporated by reference in 902 KAR 1:400.[Hearing] to the local health department having jurisdiction or to the cabinet. All administrative conferences[hearings] shall be conducted pursuant to[in accordance with] 902 KAR 1:400.

(6) If immediate legal action is necessary to prevent the creation or continuance of a health hazard, damage to the environment, or compel compliance with KRS 211.350(5), (7), (8), and (9) ~~[(2) and (3)]~~, 211.357(4) and (5) or administrative regulations pursuant to those statutes, the cabinet or local health department concerned may maintain, in its own name, injunctive action against any person engaged in the construction, installation, or alteration of an on-site sewage disposal system.

(7) The cabinet shall be notified within two (2) business days[in-writing] of any administrative action taken by a local health department against any certified installer, so that other local health departments can be alerted to that installer's status.

CONTACT PERSON: Donna Little, Deputy Executive Director, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746; fax 502-564-7091; email CHFSregs@ky.gov.



CABINET FOR HEALTH AND FAMILY SERVICES
Office of the Secretary

Andy Beshear
Governor

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Eric C. Friedlander
Secretary

February 22, 2021

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

Re: 902 KAR 10:150– Suggested Amendment

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 902 KAR 10:150, the Department for Public Health proposes the enclosed suggested amendment to 902 KAR 10:150.

If you have any questions regarding this matter, please contact Julie Brooks, Department for Public Health, at 564-3970, extension 4069.

Sincerely,

Donna Little
Deputy Executive Director
Office of Legislative and Regulatory Affairs

Final 1-28-2021

SUGGESTED AMENDMENT

**CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Public Health Protection and Safety**

902 KAR 10:150. Domestic septage disposal site approval procedures.

Page 1

RELATES TO

Line 6

After "KRS", insert "211.355".

Page 1

NECESSITY, FUNCTION, AND CONFORMITY

Line 9

After "KRS 194A.050(1)", insert "requires".

Delete "authorizes".

Line 12

After "KRS 211.980", insert "requires".

Delete "authorizes".

Page 3

Section 2(1)(a)

Line 13

After "Disposal Site,", delete "(12/18)".

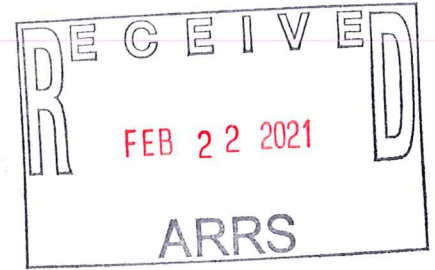
Page 4

Section 2(3)(b)6.

Line 21

After "Other information", insert "determined as".

Delete "deemed".



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Eric C. Friedlander
Secretary

February 22, 2021

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

Re: 902 KAR 10:160- Suggested Amendment

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 902 KAR 10:160, the Department for Public Health proposes the enclosed suggested amendment to 902 KAR 10:160.

If you have any questions regarding this matter, please contact Julie Brooks, Department for Public Health, at 564-3970, extension 4069.

Sincerely,

Donna Little
Deputy Executive Director
Office of Legislative and Regulatory Affairs

**Suggested Amendment
Department for Public Health
Division of Public Health Protection and Safety**

902 KAR 10:160. Domestic septage disposal site operation.

Page 1

RELATES TO

Line 7

After "211.981", insert "211.995".

Page 1

NECESSITY, FUNCTION, & CONFORMITY

Line 14

After "relating to", insert the following:
vehicle tank and equipment requirements;

Line 15

After "business; approval of", insert the following:
disposal or treatment sites and methods;

Line 17

After "procedures" insert the following:
, including suspension or revocation of licensing; injunctive action

Page 3

Section 2(1)(a)

Line 16

After "(a)", insert "A".
Delete "No".
After "person shall", insert "not".

Page 9

Section 6(7)

Line 1

After "Other", insert "similar".
After "methods", delete the following:
not specified in this administrative regulation

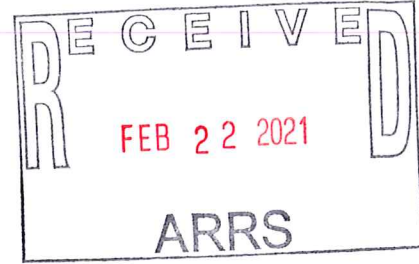
Page 12

Section 8(2)

Line 18

After "denied", insert "if there is".

Delete "in the event of".



CABINET FOR HEALTH AND FAMILY SERVICES
Office of the Secretary

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Eric C. Friedlander
Secretary

February 22, 2021

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

Re: 902 KAR 10:170– Suggested Amendment

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 902 KAR 10:170, the Department for Public Health proposes the enclosed suggested amendment to 902 KAR 10:170.

If you have any questions regarding this matter, please contact Julie Brooks, Department for Public Health, at 564-3970, extension 4069.

Sincerely,

Donna Little
Deputy Executive Director
Office of Legislative and Regulatory Affairs

**Suggested Amendment
Department for Public Health
Division of Public Health Protection and Safety**

902 KAR 10:170. Septic tank servicing.

Page 1

RELATES TO

Line 6

After "211.974," insert "211.978, 211.979."

Page 1

NECESSITY, FUNCTION, & CONFORMITY

Line 15

After "conduct of business," insert the following:
approval of disposal or treatment sites and methods;

Page 3

Section 2(1)(b)1.

Line 23

After "\$150", insert semicolon.
Delete the comma.

Page 7

Section 3(16)

Line 9

After "compliance", insert "in accordance".

Page 7

Section 3(17)

Line 13

After "performed", insert comma.

Page 8

Section 5(5)

Line 22

After "number", insert "shall be".
Delete "is".

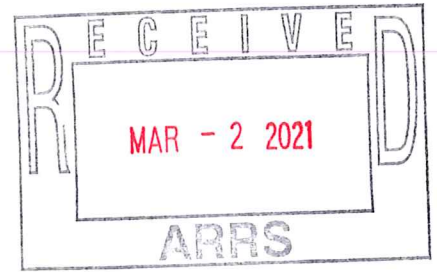
Page 9

Section 6(2)

Line 14

After "denied", insert "if there is".

Delete "in the event of".



CABINET FOR HEALTH AND FAMILY SERVICES
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Eric C. Friedlander
Secretary

March 2, 2021

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

Re: **902 KAR 20:160** – Suggested Amendment

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 902 KAR 20:160, the Office of Inspector General proposes the enclosed suggested amendment to 902 KAR 20:160.

If you have any questions regarding this matter, please contact Kara Daniel, Deputy Inspector General, Office of Inspector General.

Sincerely,

Donna Little
Deputy Executive Director
Office of Legislative and Regulatory Affairs

Final 3-2-2021

SUGGESTED AMENDMENT

**CABINET FOR HEALTH AND FAMILY SERVICES
Office of Inspector General
Division of Health Care**

902 KAR 20:160. Chemical dependency treatment services and facility specifications.

Page 1

RELATES TO

Line 6

After "KRS", insert "2.015,".

After '202A.241,', insert "205.559(1),".

Line 7

After "218A.202,", insert "222.005,".

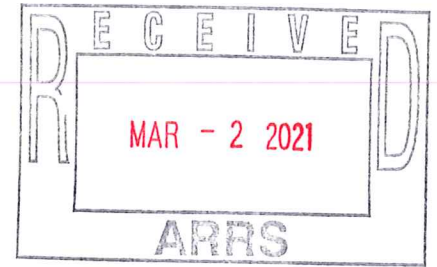
Page 41

Section 6(2)(a)

Line 17

After "Life Safety Code", insert the following:

, incorporated by reference in 815 KAR 10:060 and



CABINET FOR HEALTH AND FAMILY SERVICES
Office of the Secretary

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Eric C. Friedlander
Secretary

March 2, 2021

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

Re: **902 KAR 20:440** – Suggested Amendment

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 902 KAR 20:440, the Office of Inspector General proposes the enclosed suggested amendment to 902 KAR 20:440.

If you have any questions regarding this matter, please contact Kara Daniel, Deputy Inspector General, Office of Inspector General.

Sincerely,

Donna Little
Deputy Executive Director
Office of Legislative and Regulatory Affairs

Staff-suggested Amendment

**Final Version 3/2/2021 8:28 a.m.
CABINET FOR HEALTH AND FAMILY SERVICES
Office of Inspector General
Division of Health Care
(Amended After Comments)**

902 KAR 20:440. Facilities specifications, operation and services; residential crisis stabilization units.

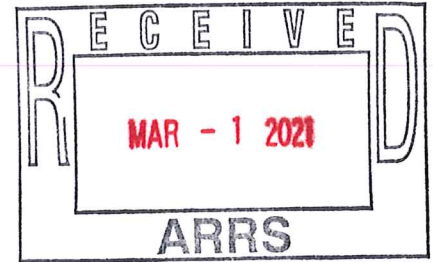
Page 3

Section 1(8)

Line 16

After "KRS 309.080(4)", insert "¿".

Delete "¿".



CABINET FOR HEALTH AND FAMILY SERVICES
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Eric C. Friedlander
Secretary

March 1, 2021

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

Re: Suggested Substitute for 902 KAR 45:190

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 902 KAR 45:190, the Department for Public Health proposes the enclosed suggested substitute to 902 KAR 45:190.

If you have any questions regarding this matter, please contact Julie Brooks, Department for Public Health, at 564-3970, extension 4069.

Sincerely,

Donna Little
Deputy Executive Director
Office of Legislative and Regulatory Affairs

SUGGESTED SUBSTITUTE

Final 2/19/2021 12:49 PM

**CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Public Health Protection and Safety**

902 KAR 45:190. Hemp-derived cannabinoid~~[cannabidiol]~~ products; packaging and labeling requirements.

RELATES TO: KRS 217.015, ~~[217.037,]~~217.025, 217.035, **217.037**, 217.155, **260.850**

STATUTORY AUTHORITY: KRS 217.125, 217.127, 217.135

NECESSITY, FUNCTION, AND CONFORMITY: KRS 217.125(1) ~~authorizes~~**[requires]** the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations for the efficient administration and enforcement of the Kentucky Food, Drug and Cosmetic Act, KRS 217.005 ~~through~~**[to]** 217.215. KRS 217.125(2) requires the secretary to provide by administrative regulation a schedule of fees for permits to operate and for inspection activities carried out by the cabinet pursuant to KRS 217.025 through 217.390. KRS 217.135 authorizes the secretary to establish food standards by administrative regulation including a reasonable definition, standard of identity, and designation of optional ingredients that shall be named on the label. This administrative regulation establishes the registration process to utilize hemp-derived cannabinoid~~[cannabidiol]~~ products in foods and cosmetics, the labeling **and packaging** requirements for products containing hemp-derived cannabinoid~~[cannabidiol]~~, and methods for use of hemp-derived cannabinoid~~[cannabidiol]~~ as an additive to food products.

Section 1. Definitions. (1) **"Approved source" means a Kentucky hemp grower, processor, or handler licensed by the Kentucky Department of Agriculture, or an out-of-state~~[out-of state]~~ hemp grower, processor, or handler who is duly authorized to produce hemp under the laws of the applicable**[their]** jurisdiction.**

(2) "Cabinet" is defined by KRS 217.015(3).

(3) **"Cannabinoid"**~~[(1) "Cannabidiol" or "CBD"]~~ means a non-intoxicating **compound**~~[cannabinoid]~~ found in the hemp plant Cannabis sativa.

(4)~~[(2)]~~ "Cosmetic" is defined by KRS 217.015(7).

(5)~~[(3)]~~ "Department" means the Kentucky Department for Public Health.

(6)~~[(4)]~~ "Food service establishment" is defined by KRS 217.015(21).

(7) **"Hemp" is defined by KRS 260.850(5).**

(8)~~[(5)]~~ "Home-based processor" is defined by KRS 217.015(56).

(9)~~[(6)]~~ "Person" is defined by KRS 217.015(32).

Section 2. Permits. (1) A person **located in Kentucky** seeking to manufacture, market, sell, or distribute a hemp-derived **[CBD]** ingestible or cosmetic cannabinoid product shall submit an Application for Permit to Operate a Food Plant or Cosmetic Manufacturing Plant, **DFS-260**, incorporated by reference in 902 KAR 45:160, to the department.

(2) The permit shall be:

- (a) Nontransferable in regards to person or address; and
- (b) Renewed annually.
- (3) The fee shall be paid in accordance with:
 - (a) 902 KAR 45:180, for a food processing establishment;
 - (b) 902 KAR 45:180, for a cosmetic manufacturer; and
 - (c) 902 KAR 45:110, Section 1(3) ~~[(4),]~~ and ~~(6) [(5)]~~, for a food service establishment.
- (4) Ingestible hemp-derived **cannabinoid** products shall not be manufactured, marketed, sold, or distributed by a home-based processor.

Section 3. Product **Packaging and** Labeling. (1) Each hemp-derived **cannabinoid**[CBD] product manufactured, marketed, sold, or distributed in the Commonwealth shall be **packaged and** labeled in accordance with KRS 217.037 and this administrative regulation.

(2) **Except as established in subsection (3) of this section,** an ingestible or cosmetic product label shall include, in a print no less than six (6) point font, the following information:

(a) A statement of identity or common product name that shall be stated upon the principal display panel of the label;

(b) The net quantity of contents expressed in both standard English and metric units of measurement located in the lower thirty **(30)** percent ~~[(30%)]~~ of the **principal display panel of the** label parallel to the base of the container;

(c) The ingredients of the hemp-derived **cannabinoid**[CBD] product, in descending order of predominance by weight;

(d) The name of the manufacturer or distributor;

(e) A statement that the hemp-derived **cannabinoid**[CBD] product is within the federal legal limit of **zero and** three-tenths **(0.3) percent**~~[of one percent (0.3%)]~~ delta-9 tetrahydrocannabinol;

(f) The total amount of **cannabinoid**[~~cannabidiol~~] per serving for ingestible products, or the total amount per container for cosmetic products;

(g) Suggested use instructions or directions, including serving sizes;

(h) The statement, or a similar statement, "Consult your physician or healthcare professional before use"; **and**

(i) An expiration date, if any~~;~~ **and**

~~(j) The Kentucky Hemp or Kentucky Proud logo or a similar marking that denotes the product was produced in Kentucky].~~

(3) **An ingestible or cosmetic product that has a total area of twelve (12) square inches or less available to bear labeling shall be labeled in accordance with subsection (2) of this section, except the print may be smaller than six (6) point font but shall not measure less than 1/32 of an inch in height.**

~~(4) [The labeling requirements of subsection (2) of this section shall not be printed unduly small in relation to the total area available to bear labeling in order to accommodate unrequired information such as logos, photographic representation of the product, or additional marketing copy.~~

~~(5) Each container of ingestible or cosmetic hemp-derived **cannabinoid**[CBD] product shall have a tamper evident seal [bear either a foil seal on the inside or a plastic sealant on the outside].~~

~~(5)~~~~[(6)]~~~~[(4)]~~ Product **packaging**, labeling or advertising material for any hemp-derived **cannabinoid**~~[CBD]~~ product shall not bear any implicit or explicit health claims stating that the product can diagnose, treat, cure, or prevent any disease.

Section 4. Hemp-derived Ingestible **Cannabinoid Products**~~[CBD product as a food additive]~~. (1) Hemp-derived **cannabinoid**~~[CBD]~~ may be added to an ingestible product during the manufacturing process or prior to retail sale at a food service establishment.

(2) **The hemp-derived cannabinoid shall be obtained from an approved source.**

(3) **The food processor or food service establishment shall obtain a valid certificate of analysis from the approved source and provide a copy upon inspection.**

(4) **Food or ingestible product shall not contain a total delta-9 tetrahydrocannabinol concentration of more than zero and three-tenths (0.3) percent~~[of one percent (0.3%)]~~ on a dry weight basis or contain tetrahydrocannabinol as the primary cannabinoid.**

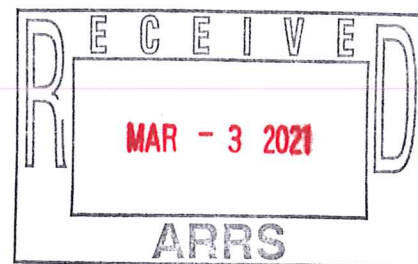
(5) A food service establishment offering hemp-derived **cannabinoid**~~[CBD]~~ products in a finished food product shall provide ~~[the following information]~~to consumers upon request:

(a) The common name of the product;

(b) The manufacturer or distributor of the product; and

(c) A statement that the hemp-derived **cannabinoid**~~[CBD]~~ product is within the federal legal limit of **zero and** three-tenths **(0.3) percent**~~[to one percent (0.3%)]~~ delta-9 tetrahydrocannabinol.

Agency Contact: Julie Brooks, (502) 564-3970, julied.brooks@ky.gov or Donna Little, (502) 564-6746, CHFSregs@ky.gov.



CABINET FOR HEALTH AND FAMILY SERVICES
Office of the Secretary

Andy Beshear
Governor

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Eric C. Friedlander
Secretary

March 2, 2021

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

Re: 907 KAR 15:070 – Suggested Amendment

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 907 KAR 15:070, the Department for Medicaid Services proposes the enclosed suggested amendment to 907 KAR 15:070.

If you have any questions regarding this matter, please contact Jonathan Scott, Regulatory and Legislative Advisor, Department for Medicaid Services, at (502) 564-4321, ext. 20151.

Sincerely,

Donna Little
Deputy Executive Director
Office of Legislative and Regulatory Affairs

Staff-suggested Amendment

Version 3/1/2021 1:26 p.m.

CABINET FOR HEALTH AND FAMILY SERVICES

Department of Medicaid Services

Division of Policy and Operations

(Amended After Comments)

907 KAR 15:070. Coverage provisions and requirements regarding services provided by residential crisis stabilization units.

Page 3

Section 2(1)(f)4.

Line 7

After "Individual [outpatient]", delete "-".

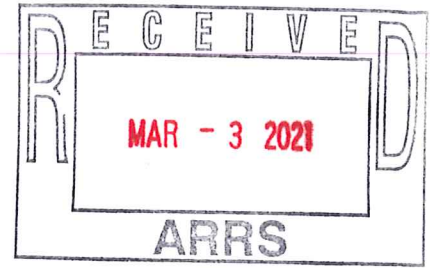
Page 11

Section 3(2)(c)2.a.

Line 16

After "907 KAR 3:170,", insert "one-on-one".

Delete "one (1) on one (1)".



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Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

Re: 907 KAR 15:080 – Suggested Amendment

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 907 KAR 15:080, the Department for Medicaid Services proposes the enclosed suggested amendment to 907 KAR 15:080.

If you have any questions regarding this matter, please contact Jonathan Scott, Regulatory and Legislative Advisor, Department for Medicaid Services, at (502) 564-4321, ext. 20151.

Sincerely,

Donna Little
Deputy Executive Director
Office of Legislative and Regulatory Affairs

Final 3-2-2021

SUGGESTED AMENDMENT

**CABINET FOR HEALTH AND FAMILY SERVICES
Department of Medicaid Services
Division of Policy and Operations**

907 KAR 15:080. Coverage provisions and requirements regarding chemical dependency treatment center services.

**Page 1
RELATES TO
Line 7**

After "309.0831," insert "369.101-369.120, 20 U.S.C. 1400."

After "21 U.S.C. 823(g)(2)," insert "29 U.S.C. 701."

After "42 U.S.C.", insert "290ee-3, 1320d-2-1320d-8."

Line 8

After "1396a(a)(23)," insert "12101."

After "42 C.F.R.", insert "Part 2, 431.17."

After "435.1010", insert ", 45 C.F.R. 160, 164".

**Page 5
Section 3(2)
Line 4**

After "use disorder or", insert "for".

**Page 18
Section 3(3)(h)1.a.
Line 22**

After "use disorder or", insert "for".

**Page 20
Section 3(3)(i)1.b.
Line 19**

After "recipient to", insert "his or her".

Delete "their".

**Page 21
Section 3(3)(j)1.b.(ii)
Line 19**

After "recipient to", insert "his or her".

Delete "their".

After "level from", delete "a".

**Page 23
Section 3(3)(k)3.a.(ii)
Line 11**

After "recipient to", insert "his or her".

Delete "their".

After "level from", delete "a".

Line 12

After "co-occurring", insert "disorders".
Delete "disorder".

Page 25

Section 3(3)(n)1.b.

Line 16

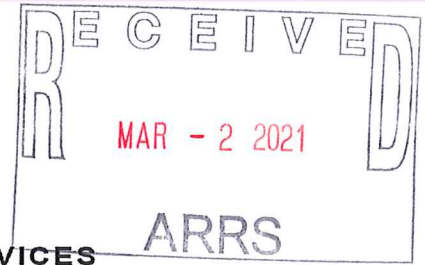
After "effects of", delete "a".

Page 26

Section 3(3)(o)1.a.

Line 10

After "recipients with", delete "a".



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March 2, 2021

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c/o Emily Caudill
Administrative Regulation Review Subcommittee
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029, Capitol Annex
Frankfort KY 40601

Re: Agency Amendment for 908 KAR 2:270

Dear Co-Chairs West and Hale:

After further review and the concerns raised by members of the Administrative Regulation Review Subcommittee concerning compliance with KRS Chapter 13A, the Department for Behavioral Health, Developmental and Intellectual Disabilities is filing this agency amendment to 908 KAR 2:270, Community behavioral health training. The proposed revision eliminates any rephrasing of governing statutes within the administrative regulation.

If you have any questions regarding this matter, please contact Justin Dearing, Department for Behavioral Health, Developmental and Intellectual Disabilities, at (502) 782-7212.

Sincerely,

Donna Little
Deputy Executive Director
Office of Legislative and Regulatory Affairs

3/1/2021

AGENCY AMENDMENT

CABINET FOR HEALTH AND FAMILY SERVICES

Department for Behavioral Health, Developmental and Intellectual Disabilities

908 KAR 2:270. Community behavioral health training.

Pages 1 and 2

Section 2(1) and (2)

Lines 19-21 and 1-4

After "Training.", delete the following:

(1) The cabinet shall administer the community behavioral health training program to ensure trainers can provide education opportunities to the community on how to identify and assist an individual who is believed to be:

(a) Developing or has developed a mental health disorder or an alcohol or substance use disorder; or

(b) Experiencing a mental health or substance use crisis.

(2)

Page 2

Section 2(2)

Line 4

After "provide", insert "community behavioral health".

After "information at", insert "<http://dbhdid.ky.gov/kdbhdid/default.aspx>".

Delete "<https://www.dbhdid.ky.gov>".

Page 2

Section 3(2), 3(3), and 3(4)

Lines 7 to 15

After "(2)", insert the following:

All information for grant application shall be provided at
<http://dbhdid.ky.gov/kdbhdid/default.aspx>.

Delete the following:

Training grants shall:

(a) Cover the cost of training courses; or

(b) Provide hardship subsidies for training fees.

(3) Grants shall be prioritized based on:

(a) Underserved populations;

(b) Areas with health care provider shortages; and

(c) Rural areas.

(4) Grants shall be evaluated on the trainings ability to provide quality behavioral health training to areas in need and trainers serving populations in need.